

thereof, more than the registers, or the protocols brought into the clerk-register. —It was *replied*, That other instruments of importance were never extended further than to real rights of land or annualrent.

THE LORDS found, That instruments of intimations of assignations were not accustomed to be insert in protocols; and therefore found notaries not obliged to bring in their protocols to give private parties inspection; but ordained the defender to depone, whether these instruments were insert in his protocol, and to produce what he acknowledged upon oath. See PUBLIC OFFICER.

*Stair, v. 2. p. 826.*

No 48.

1696. June 17.

LAWRIE against HAY.

THE LORDS decided the competition between Thomas Lawrie and Doctor Hay, two assignees, to one sum. Sir David Hay had perfected his by his first intimation. Thomas objected several nullities and informalities against it; such as, that it differed from the assignation in the sum, the one making it L. 2082, and the other L. 2090. *2do*, That it made no mention of the cedent, nor of the date of the assignation, nor of the *causa debendi*, whether by decret or bond, and only related to the letters of supplement in general; so it might be applicable to any other right as well as this; not being wrote on the back of the assignation, but on a paper apart. *Answered*, Law had introduced no essential requisite solemnities to an intimation, (as it had done to instruments of sasine) but any certification, putting the debtor *in mala fide*, is sufficient; and though the act of Parliament 1672, required the execution of all summonses to express the names both of pursuer and defender, and not generally to refer to the summons, under the pain of nullity; yet that being a correctory law, could not be extended beyond its own case; and there was neither law nor practice, obliging them to write the intimation on the back of the assignation or letters of supplement, or declaring any such intimations, contained in a separate paper, null; and here copies were affixed at the market-cross, and intimation personally made to the Lord Napier, debtor, his curators and factors, which were more than sufficient to supply the defects of this intimation, if any were.—THE LORDS found, whatever this intimation might operate against the common debtor, yet now in a competition with a co-creditor, co-assignee for onerous causes, it was too general and uncertain, seeing it might serve for intimation of another debt of the like sum, as well as this. They preferred Thomas Lawrie to the sum in question.

*Fol. Dic. v. 1. p. 63. Fountainball, v. 1. p. 721.*

No 49.

In a competition, an intimation on a paper apart, not being so specific, as necessarily to have reference to a certain assignation and no other, was postponed to one more particular.