

No. 1. 2d Dec. 1680, Pitcairn *contra* Rose, No. 45. p. 647; 18th Nov. 1696, Watson *contra* Milne, No. 47. p. 648.

The Lords adhered.

Lord Ordinary, *Pitfour*.  
Clerk, *Kirkpatrick*.

For John Donaldson, *A. Fergusson*.  
For William Donaldson, *A. Lockhart*.

R. D.

*Fac. Coll. No. 14. p. 31.*

No. 2. 1770. February 16. STEWART *against* EARL OF GALLOWAY.

A party after bringing an action against a debtor, and raising inhibition on it, submitted the matter to arbiters. In the submission and decree-arbitral, the inhibition was not mentioned. The Court "found, that the sums awarded by "the decree-arbitral were not secured by the inhibition, without prejudice to "the Petitioner to insist in the depending process for decrees as accords."

R. H.

*Fac. Coll.*

\* \* This case is No. 62. p. 7004. *voce* INHIBITION.

1771. June 21.

RICHARD HETHERINGTON, and Others, Tenants on the estate of Killhead, *against* THOMAS CARLYLE, Factor on the sequestrated estate of Killhead.

No. 3.

Reduction of a decree-arbitral, attempted upon alleged falsehood in the decree.

An error *calculi* may be corrected without reducing the decree.

THE pursuer brought a reduction of a decree-arbitral, pronounced in a submission betwixt the above parties, upon the ground of *falsehood*, and as being *defective* and *partial*, as it had not determined the whole matters in dispute. The decree-arbitral set forth, "That the arbiters had considered the claims of "both parties, and answers thereto, with the several processes specified in the "submission, with the whole procedure, minutes, and interlocutor therein; "and particularly the process of suspension of the said Thomas Carlyle's charge "against the tenants for payment of their rents, and whole proofs led thereon, "with the tacks granted by the said Sir John Douglas, upon which the said "charge proceeded, and had met with and heard parties doers upon the pre- "misses."

The pursuers affirmed that this averment could not possibly be true; and in a condescence offered to prove, *1mo*, That no memorial was laid before the arbiters but with respect to the case with one only of the pursuers; *2do*, That the proofs, tacks, and other writings, were so extremely voluminous, that they could not, as stated, have been perused, or duly considered by the arbiters; *3tio*, That instead of having heard parties or their doers, the arbiters had proceeded to pronounce their decree-arbitral, even after the pursuer's