

Some terms are Indulged to the pursuer for producing the
 sufficient merits of his Plea, accessories or Bullets Stairs etc. &c.
 The Act for the second term is to be called judicially upon
 other acts in order to subordinate to the Defendant's production
 satisfy the Defoe thereof before and a certain day to be ap-
 pointed by the ordinary, not exceeding ten days; which Indulgence
 granted on the act, and subscribed by the ordinary of Feb. 1
 1709. The Extract out of the Books of Sessions,
 & January, will satisfy the production; Rats Ab. 4 Feb. 20
 because the principal being left there in publick Custody
 Engineer of the w^{ch} should not suffer loss, tho' the Negligence
 of the Keeper of the Register, which the other is not suffi-
 -able for. A Contumacious of writs in publick Custody
 offered by the Defender in an Improbation after an Inad-
 -ful for the first term, before extracting the Act for the
 was allowed to be received to stop Certification 24 Novemb.
 1713. & seven contra Motion of Bauger. Because so long a
 term for production was Current, the pursuer had knowledge
 whether the writs called for were so Required, and to get
 warrant for transmitting the Principals, if he had up-
 -saw, he might Extract his Act and Give Certification.
 And an extract out of the Register of any Insuper Court
 not satisfy the production without producing the writs
 and the Record of not production laid upon the Defende
 who may claim himself or his Bullets for watching over
 Books of an Inferior Court to Record their Evidence in
 January, 1674 Ghores contra Golquhon 130 January 16
 Inmure contra Luffool offered by Dirlatoun Sheriff
 Act Extracts out of an Inferior Register will hinder Cer-
 -fication in an Improbation of the Rights of forfeited an
 -against the Sovereigns because it is presumed, that for for-
 -persons will steal their writs. And the Certification
 in an Improbation be not ordinarily stopped by Extract
 of Inferior Courts; Yet whose such an Extract of a bond was
 very old long passed 40 Years hath an Extract of a bond was
 against prescription and administered by Many by
 Agreements in Relation thereto with his Successors; Cer-
 -fication was refused in respect of these Administrations 24
 -January 1675 Ghores contra Golquhon. Again, Cer-
 -fication in an Improbation for not production of an
 -principal right was refused, and an Extract thereof out of
 -an Inferior Court Books was sustained to satisfy the
 -production; in respect the Defender was Desired by
 -a letter from the pursuer to purchase that right, and
 -it was Contra bonam fidem to quarrel it after it was
 -Required

Required at the pursuer's desire 27 January 1708 G. Encirning
 contra Term of James Colman. Certification in an Improbation
 at the G. Hall, ¹⁷⁰⁸ received from James Colman, against James
 bond of provision granted by the pursuer to the pursuer of
 bond with an Obligation of a Scotch Marriage was not allowed
 upon this ground, that the writs called for were in the hands
 of the pursuer's writer, who is desired to give them up, but
 he was paid of his account of writing, which the pursuer
 as he was liable for 22 Novemb. 1708. Insuper Contumacious
 Insuper. Because writs in the pursuer's hands will
 could not be said to be in his own hands, tho' having only
 a right to recover them; for so long they be paid to be in
 the third hands, which Representation extends not to acts of
 National profession, and the turning of things which Requires
 testimony, especially Certification, that the pursuer has only
 served his own bene, and the writs and provisions to the
 Defenders Exceed the Value of the estate.

The Certification in an Improbation is, that the writs
 called for shall not only be in the hands of the pursuer, but
 reputed safe and secure, and that no writs in or out of these
 -ment. Nor is it necessary to that any great Reason appear
 -ditions of the writs called for be not produced. And a
 -of Certification is granted against them, when by they are
 -declared such as can never be Made up, if not produced in
 -time coming. But upon such presumptive Improbation
 -ing the writs called for as false by a fiction of Law, prepar-
 -ly Required to produce them is not Reputed or punished as
 -a forger, but up Bondum contra de Corpore Delicti, or that
 -ever there were any such writs. A Bond of Certification
 -the in absence, one fairly extracted, if not recently quarrelled
 -will hardly be Reduced. It is so strong, that it is harder
 -to be Reduced, than even a Parcel of simple Testimony of
 -writs produced in foro contradictorio, or any Prelature
 -of rights. Writs against which Certification was fairly
 -extracted were not allowed to be received in payment
 -of the capened of the descent 29 Novemb. 1710. Insuper contra
 -Erskin. The Lord Stair (Ab. 4 Feb. 20 & 6) tells us, that the
 -never approved a Certification in a singular provision
 -to have been Received save once in the singular provision
 -of a Soldier in the Scottish forces in Scotland, who
 -lay there prisoner during the whole time of the Dependence
 -of the people. The Reason is, because this Certification is
 -the most Common, and the greatest security of all our
 -Real rights, whereby men know what Rights affect their lands,
 -and singular Successors are secured before the purchase.
 -However Bonds and Records are in Reputation against her
 -writs