

poned, seeing *exceptio falsi est ultima* ; and the alleger of falsehood succumbing in the probation, can never thereafter be heard :—And on the other part, it was ALLEGED, That she being a woman, and her procurators not having libelled an improbation, but a naked reduction, and only proponing the exception of falsehood against the production, it was hard to prejudge her of the benefit of reduction.

The Lords, before answer, ordained them to be heard on the reasons of reduction.

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1669. July 10. SOMERVELL *against* The EARL of CARNWATH.

IN this action, before-mentioned, Fullartoun having been examined, did declare, That the bond granted him by the Earl of Carnwath, was to the behoof of Somervell ; and that accordingly he did assign the same :—Whereupon the Lords finding that bond to be prior to the back-bond granted by Somervell to the Earl, they inclined to discern that it was one of the bonds for which the Earl gave an assignation ; unless Somervell would make it appear, and condescend upon other bonds due by the Earl, for which he granted a back-bond. But he condescending upon a bond of £100 sterling, which he alleged that he had delivered up to the Earl, when he got the assignation ; They ordained, before answer, that he should prove, by the writer and witnesses, that there was such a bond ; or, by the Earl-Chamberlain's, or his own oath, that it was delivered up.

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1669. July 10. REID and GLASS *against* CUNNINGHAM of ENTERKIN.

IN a double pointing against the tenants of some lands, belonging to the Earl of Loudon ; Enterkin craving preference, as being infest in an annualrent prior to the wadset granted to William Reid, and possession conform :—It was ALLEGED for the wadsetter, That he ought to be preferred, because Enterkin had accepted of a factory from him, as having a valid right to the lands ; and obliged himself to uplift the duties for his use, without any reservation of his annualrent.

The Lords did SUSTAIN the allegiance, and preferred the wadsetter ; notwithstanding it was answered, that he, having a real infestment and possession, needed not reserve the same.

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