

never delivered till on death-bed, or did bear that they should be obligatory, as well delivered as undelivered. But the Lords gave no opinion of judgment, at this time, as to these cases.

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1669. *July 21.* ANDREW WHITE of THURSTO *against* ELIZABETH MAXWELL.

IN a double poiding, raised by John Mitchell of Balvardie, as debtor to John Maxwell of Dalswintoun, by his bond; Andrew White of Thursto craved to be answered, as being creditor to Dalswintoun, and having arrested; and the said Elizabeth craved to be preferred, as having right from Sir Henry Nisbet, who was assignee, constituted by Dalswintoun, to the said bond.

It was ALLEGED, That the assignation was *inter conjunctas personas*, Sir Henry being Dalswintoun's brother-in-law; who, without any onerous cause, transferred his right to Dalswintoun's own daughter, who was then *in familia* with her father.

It was REPLIED, That the assignation could not be taken away *ope exceptionis*; but by reduction, upon the Act of Parliament 1621.

The Lords found no necessity of a reduction; but ordained, that Elizabeth should condescend upon the onerous cause; and, if the assignation was purchased by the means of the grand-mother, as was informed, or the means of any other person than her father, and what way she could prove the same.

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1669. *July 22.* The RELICT of MR GEORGE PATERSON *against* His CREDITOR.

THERE being a decret recovered against the relict, as vitious intromitter with her husband's goods, in so far as she had received the sum of £60 Scots, due to her husband by the Earl of Wintoun; she did suspend, and intent reduction upon this reason,—That the decret was before an inferior court; and she, being an ignorant woman, her procurator did omit to propone several defences upon writs, which she now produced. *viz.* an assignation by her husband to that sum, and that she was decerned executrix-creditrix upon her contract of marriage.

It was ANSWERED, That the decret was *in foro contradictorio*, wherein liti-contestation was made, and, after probation, sentence pronounced.

The Lords did repone the suspender, notwithstanding, in respect of her condition, and that the reasons were instantly verified; and that decret against her, as vitious intromitter, made her liable to her husband's whole debts; but ordained her to pay the whole expenses. This was done, *me reclamante* and several others of the Lords, as being law and form of process; and the case being