

THE LORDS sustained the title libelled on, as a sufficient title in this process, the pursuers confirming before extract.

No 51.

Act. *Borwel.*Alt. *Ila.*Clerk, *Dalrymple.*

*Fol. Dic. v. 1. p. 321. Bruce, No 36. p. 45.*

## S E C T. IV.

## Assignations not in the Scots Form.

1627. December 11. FALCONER *against* HEIRS of BEATIE.

IN a registration pursued by John Falconer as assignee by progress, made by Andrew Wilson Scotsman, resident with his wife and family in Germany, to a bond of 1000 merks, owing to him by Robert Beatie burgess in Montrose, against the heirs of the said Robert Beatie, it being *alleged*, That the first assignation made by Wilson, which was made in Germany, where the said Wilson dwelt, was null, because it wanted witnesses insert therein, and so could not produce action by the law of this realm; which allegiance was repelled, and process sustained thereupon, the pursuer either proving that it was the custom in that part of Germany where the assignation was made, that such writs are sustained without witnesses, or else finding caution to warrant the defender at the cedent's hands, any of the which two being done, the LORDS would sustain the assignation, albeit made betwixt two Scotsmen, and albeit pursued in Scotland, and disconform to the Scots law. See 12th December 1627, and 15th January 1628, *inter eosdem*; *voce* HERITABLE AND MOVEABLE.

Act. *Falconer.*Alt. *Mowat.*Clerk, *Scot.*

*Fol. Dic. v. 1. p. 321. Durie, p. 319.*

1636. July 16.

SINCLAIR *against* MURRAY.

AN assignation being made by Murray, one of the King's butrymen in England, to another Murray, in and to some bonds and debts owing to him by his debtors, which, after his decease, were used for the ground and title of a pursuit made by the assignee, which being quarrelled by the defender, viz. the person who would have been heir to the cedent, that it was null, because it designed not the writer of the body of the assignation; and it being *answered*, That

No 52.

Assignation made in a foreign country, of a bond due by a debtor in Scotland, was sustained, though wanting witnesses, being according to the form of the country.

No 53.

An assignation made in England, of effects in Scotland, and granted by one Scotsman to another, was