

No 72. rity, seeing he might, out of favour, secure his tenant, and grant him a discharge, which did not preclude him to reduce a bond granted by him in his minority to his hurt and lesion, unless he had done some direct deed in favours of the creditor.

*Gosford, MS. No 818. p. 515.*

No 73.

A bond of provision granted on death-bed, was found homologated by a factor, in the heir's minority, paying the annualrents, which were sustained by the heir as articles of discharge after majority.

1683. *January.* CRAWFORD *against* CRAWFORD.

ALEXANDER CRAWFORD of Keith having pursued a reduction of a bond of provision granted by the deceast Alexander Crawford, his father, to Marion Crawford his daughter, for 3000 merks, which being granted upon death-bed, the LORDS reduced the bond; but in respect one of the witnesses, who was the pursuer's factor, has deponed, that, during the time he was factor, and intromitted with the pursuer's estate, he made payment to the defender of the annualrents of the said bond, and that the pursuer, since his majority, had granted the factor a general discharge of all his intromissions, which the LORDS found did import an homologation of the bond; therefore, they granted him a diligence against the factor for exhibiting the discharge.

*Fol. Dic. v. 1. p. 381. Sir P. Home, MS. v. 1. No 375.*

1685. *February 13.* FALCONER *against* ———.

No 74.

Found in comity with Farquhar against Gordon, No 65. p. 5685.

ONE having raised revocation and reduction of a bond wherein he became cautioner in his minority;

It was *alleged* for the defender; That the pursuer had homologated, by pursuing and recovering a decret against the principal upon a separate bond of relief, narrating the bond in question.

*Answered* for the pursuer; The pursuit and decret upon a separate bond of relief, *ob majorem securitatem*, cannot infer homologation of the debt. *2do*, The decret upon the bond of relief was procured before the revocation, which therefore cannot be said to be passed from.

THE LORDS repelled the defender's allegiance, and qualification of homologation,

*Fol. Dic. v. 1. p. 381. Huncarse, (MINOR.) No 714. p. 202.*

1688. *July 13.* DEACON SOMERVILLE *against* EARL OF ANNANDALE.

No 75.

THE Earl of Annandale having objected minority against a bond granted by him for 15,000 merks, to Deacon Thomas Somerville, on which he was pursued by the creditor,