

No 116. reduce these deeds, and could not be prejudged by such confessions made, when the contrary, in verity, is truly tried; and his officer's omission cannot prejudice the King; but yet he might be heard, notwithstanding of any such sinistrous affirmation made to the Prince, whereupon the writs proceeded. These reasons were sustained, and found relevant to reduce the retours and services; and it was declared, that the defender was not heir, neither could he be to these persons; and that he was not of blood to them, but declared, and it was found that the King was sole and only heir. And it being *alleged*, That the King had no interest to quarrel the retours, in respect of the writs foresaid, wherein he confessed the defender to be heir, and that his officers compearing at the service was a consent thereto; the exception was repell- ed, and the King's interest sustained, notwithstanding of these writs; and found that the King might now quarrel the same; and the wrongous informa- tion, and omission of the officers could not prejudice the King; and in this process, error being also concluded against the assizers, they were assoilzied from all error and punishment, because it was found, that they had just and probable cause to have served him heir, where the King's Advocate compear- ed the time of the service, and did not oppone thereto; but protested, that the proceeding therein should be for corroboration of the renunciation made in the King's favour, whereby, in effect, *tacite* he consented thereto, and which was found sufficient to liberate the assizers, together with the charter granted by the King, bearing that designation, whereby it appears, that the officers are hereby taxed for suggesting to the King that which was unwarrantable. In this cause, the treasurer-depute sat, and judged, reasoned, and voted, al- beit he was pursuer. See KING. RETOUR.

Act. *Advocatus.*

Alt. *Mowat, Neilson, & Primrose.*

Clerk, *Hay.*

*Fol. Dic. v. 1. p. 448. Durie, p. 682. & 683.*

No 117. 1661. December 3. SIR ROBERT FARQUHAR *against* LYON of Muiesk.

SIR ROBERT FARQUHAR, pursuing a reduction of a disposition, against John Lyon of Muiesk, upon circumvention,

THE LORDS granted certification, unless not only the extract, but the prin- cipal disposition were produced, in respect they were registered at that time, when the principals were given back to the parties.

*Stair, v. 1. p. 63.*

No 118. 1665. January 20. LITTLE *against* EARL of NITHSDALE.

WRITS registered in the Court of Session being called for, a condescendence of the dates of registration was sustained to bar certification, because that was