

# DECISIONS

OF THE

## LORDS OF COUNCIL AND SESSION,

REPORTED BY

SIR PETER WEDDERBURN, LORD GOSFORD.

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1668. June 19. SHEIRSWOOD *against* SHEIRSWOOD.

THOMAS Sheirswood did grant an assignation of a bond of 5000 merks, made to him by Douglass of Bowieburgh, bearing for love and favour, and reserving his own liferent, with a power to dispose otherwise thereof during his lifetime; which bond remained in his own custody till his death. The assignees having pursued the nearest of kin for delivery of the bond and assignation, the action was sustained, notwithstanding that it was alleged that the assignation was never a delivered evident; because the Lords found, That, albeit the not-delivery of an evident by the granter was a relevant exception where dispositions were made of heritable rights, or assignations were made *inter vivos*: yet the assignation being of the tenor foresaid, it was *donatio mortis causa, quæ æquiparatur legato*: and so, in delivery thereof, could be no defence.

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1668. June 20. The MINISTER of FERGUNDENNY *against* PARISHIONERS.

THE minister of Fergundenny having charged the heritors of the parish for