

the head of fraud and imposition, and incapacity of Lord Roseberry to contract, on account of furiosity.

The Lords did not reduce the bonds *in totum*, but sustained the accounts so far as they were just and reasonable; but so far as they were not just and reasonable, not only curtailed them, but also in the same proportion diminished the sums of money that made up the remainder of the two bonds to which the accounts referred, and in the same proportion, as by this means the two bonds should be diminished of which the accounts were produced, reduced the third bond, of which no account was produced, and remitted to an Ordinary to do accordingly.

1751. June 13.

STRAHAN *against* ———.

FOUND that tenants could have no allowance off a master on account of cess and levy-money forced from them by the rebels in the 1745. The Lords seemed to be clear in the general point; but what made the doubt here was, that there seemed to be an agreement and consent on the part of the master to the tenants paying the levy-money and cess.

1751. June 19. MRS KENNEDY *against* MRS CAMPBELL.

[Elch. No. 7, *Proof*.]

THIS was a competition betwixt two ladies about a dead man, the late Campbell of Carrick, who in the year — granted a holograph certificate to Mrs Kennedy, the pursuer, certifying that he had married her such a day before two witnesses named, but not subscribing, at such a place. In consequence of this certificate it was not doubted but the *copula* had followed though they never publicly cohabited together. Some time after this he married clandestinely, without proclamation of banus, Mrs Campbell, the defender; but at the same time he wrote a letter to the pursuer, acknowledging her for his wife still, and expressing the utmost sorrow for what he had done. However, he lived near twenty years thereafter publicly with his second wife, had children by her, and all this while the first wife made no complaint, (for certain prudential reasons, as was said, and for one obvious one, lest the man should have been hanged;) but on the contrary behaved to Mrs Campbell as if she had been his wife. She now brings an action against Mrs Campbell to have her marriage declared. The Lords found at first, that by her silence for so long a time, and her acknowledgment of Mrs Campbell's marriage, she was barred *personali exceptione*; but this decree the House of Peers reversed, as inconsistent with the sacred contract of marriage, and allowed Mrs Kennedy to prove the marriage. In consequence of which decree Mrs Kennedy insisted in the proof of her marriage before the Court of