

No 65.

of these debts; so that, if the condescence now insisted on were just and true, the arbiter had all these debts to claim as fully as before the assignation; beside the suspender could very well object against these debts.

THE LORDS found, That the arbiter could not warrantably accept of any assignation gratuitous, in whole or in part, during the currency of the submission; and that the assignation, bearing a sum of money instantly delivered, could not be construed to be granted for payment or security of the debts condescended upon, unless there had been a back-bond or discharge, or some other document declaring the cause, at the time of the granting the assignation.

*Fol. Dic. v. 1. p. 51. Dalrymple, No 129. p. 180.*

No 66.

To allege that the arbiters had decided upon grounds which were not true in fact, is no relevant ground of suspension or reduction. The exception of *falsehood*, in act 1695, regards only the falsehood or forgery of the submission or decree-arbitral.

1724. December 18.

HARDIE against HARDIE.

A decret-arbitral being suspended, upon the allegiance, that some facts mentioned in the decret, as the foundation of the decerniture, were utterly false, which was offered to be proven by the oaths of the arbiters themselves; the LORDS refused to sustain this as a reason of suspension, though it was *urged*, that the suspender was founded in the very words of the regulations 1695, allowing decreets-arbitral to be called in question, upon the head of 'corruption, bribery, and falsehood, alleged against the judges arbitrators who pronounced the same,' where the word *falsehood* being directed personally against the judges arbitrators, cannot be understood in any other sense, than their pronouncing decret-arbitral upon false suggestions.

*Fol. Dic. v. 1. p. 51.*

No 67.

A decret-arbitral reduced, because the arbiters had, before giving it out, demanded, and obtained, from one of the parties, a fee for their trouble, which they were decerned to repay to the clerk of process, to be applied to charitable uses.

1738. January 12.

BLAIR against GIB.

ARBITERS, who by the submission had a power of prorogation, having signed their decret-arbitral, refused to give the same out to the parties until they were paid for their labour and pains, and continued the submission current by prorogations, until this should be adjusted. One of the parties, who judged the decret beneficial to him, paid the sum demanded, and got the decret put into the register. In a reduction of the decret by the other party concerned, the LORDS found the reason of reduction relevant and proven, that the decret-arbitral was obtained by bribery and corruption, and therefore reduced the same; and ordained the arbiters to pay into the clerk of process the sum received by them, to be bestowed on charitable uses.

*Fol. Dic. v. 1. p. 51.*