

1663. July.

BEG *against* BROWN.

No. 28.

In a process betwixt John Beg and Antonia Brown, the Lords found, that a bond of corroboration is a sufficient title to acclaim the debt, though the principal bond be lost or amissing; unless it were alleged, That the principal bond is satisfied.

*Gilmour, No. 89. p. 69.*

1664. November 18.

MEIKLE *against* LISTON.

No. 29.

Janet Meikle as heir general, served and retoured to John Meikle her brother, pursues reduction of a disposition of a tenement of land, and certain other lands made by the defunct to Patrick Liston, with the infeftment following thereupon; upon this reason, that he was furious or idiot, the time of the disposition, before and ever since during his life-time. It was alleged, That a general service could not furnish a title for an action of reduction, being to take away a real right and infeftment; and therefore, unless the pursuer were infeft, there could be no process. It was answered, That the allegiance ought to be repelled, because the pursuer could not be legally infeft upon a retour, until the infeftment granted to Liston were reduced; because the defunct *non obiit ultimo vestitus et sasitus*, being denuded by the infeftment granted to Liston; and therefore, properly that infeftment should be first reduced, to the end that the pursuer may be *habili modo* infeft upon the retour; just as if a general heir were pursuing a deed and infeftment to be reduced as done in *lecto ægritudinis*, or an heir of a minor upon minority. The Lords repelled the allegiance.

Reduction of a disposition, whereupon infeftment has followed, may be sued by the heir served in general, though not infeft, where the reasons are idiocy, minority, or death-bed.

*Gilmour, No. 113. p. 83.*

1664. December 17.

SARAH BLOMART *against* EARL of ROXBURGH.

No. 30.

Sarah Blomart pursuing the Earl of Roxburgh, he alleged she could have no processes, being of the United Provinces, who are declared enemies to his Majesty. It was answered, that there was no denunciation of war by his Majesty, as King of Scotland, nor any proclamation in Scotland to that purpose. It was replied, that there was a warrant by the King and council to seize upon all the Dutch vessels in Scotland.

The Lords found that this was but an embargo, and no denunciation of war in Scotland; and therefore found process.

*Stair, v. 1. p. 242.*