

1683. *January 17.* BANNANTYNE *against* JAMES BONNAR's Relict.

No 128.

FOUND, that bonds secluding executors are not rendered moveable by a charge of horning, as bonds heritable by a clause to infest are. *2do*, That an heritable bond, whereupon comprising and infestment had followed, was not made moveable by a posterior moveable bond of corroboration. *3tio*, That an arrestment, and a summons to make furthcoming, did not take off the heritable quality of a clause excluding executors, which might be conceived for the security of the heir, and is only taken off by innovating the security, without excluding executors, or uplifting the sum and extinguishing the security; although it might be *pleaded*, That such a process would make a bond, containing an obligation to infest, moveable. Here it was reasoned among the Lords, but not voted, if a summons for payment was equivalent, *quoad* the effect of making moveable, to a charge of horning, *ratio dubitandi*, though a citation doth as effectually signify the creditor's desire to have his money as a charge of horning doth, yet the one proceeds upon a decret, and the other passes without any decret.

*Harcarse, (EXECUTRY.) No 447. p. 123.*

1683. *January 17.* WISHART *against* EARL of NORTHESK.

No 129.

FOUND that registration of a bond secluding executors, and a charge given upon it, did not make it moveable.

This interlocutor was afterwards (1st March 1683) altered, and the sum found to belong to the executors. *Fol. Dic. v. 1. p. 374. P. Falconer.*

\*.\* See this case No 109. p. 5552.

1687. *February.* YEAMAN *against* YEAMAN.

No 130.

FOUND that registration of a bond secluding executors in order to charge, did not make it moveable.

*Fol. Dic. v. 1. p. 374. Harcarse.*

\*.\* See this case No 54. p. 5484.

1705. *July 24.*

Mr JAMES GRAY of Balgony *against* HENRY PANTON of Hilton.

No 131.

A BOND of 8000 merks, payable to John Urquhart, he being on life, and failing of him by decease, to Thomas Menzies of Balgony his heirs and assignees, with a clause, 'That the sums should be employed upon heritable security in favours of Thomas, his heirs and assignees, (without mentioning executors)

An heritable bond was granted without a precept of sasine; yet there was a