

No. 4. 1738. *January 26.* CORSAN, and RAE her Husband, *against* MAXWELL.

AN inhibitor having afterwards adjudged and reduced a voluntary disposition *ex capite inhibitionis*, the inhibition was not found purgeable by payment of the principal sum, annualrents, and penalty due upon the original bond at the date of the inhibition, nor even at the date of the offer, but only by payment of the accumulated sum in the adjudication, though deducted long after, and annualrents thereof; for the Lords thought that the inhibition secured the debt itself, and all diligences led or to be led upon it, (notwithstanding the decision observed by Lord Newton, 9th February 1683. (DICT. No. 116. p. 7048.) *Vide inter eosdem voce BONA ET MALA FIDES*, No. 4.

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No. 5. 1738. *February 14.* HARVIES *against* GORDON.

REDUCTION of a sale and disposition of lands being raised, and inhibition on the dependence, and the Lords having sustained the disposition, but found the defender liable for a higher price; the sums decerned for, because not libelled, were found not to be secured by the inhibition.

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No. 6. 1738. *June 27.* PRICE *against* MAJOR JOHNSTONE.

INHIBITION for a great sum being raised and executed on a summons against one out of the kingdom, and the pursuer refusing to insist till the day of compearance, which was still blank, and the defender not having a copy to call upon, in order to get protestation; the Lords would not recall or restrict the inhibition without some evidence how much was due, nor oblige the pursuer to insist before the day of compearance; but ordered him to furnish the defender with a copy having the day filled up, that he might thereupon get protestation after that day, or raise a summons *prævento termino*.

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No. 7. 1742. *February 17.* A. *against* B.

INHIBITION on a gratuitous bond payable after the granter's death, and only failing issue of him, the Lords thought such inhibition could not pass

*causa cognita*, and therefore though it passed not being opposed, they refused to sustain it to reduce a posterior onerous transaction.

No. 7.

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1742. *June 2.*

CREDITORS of STEWART of Castlehill *against* DUNBAR of Burgie.

No. 8.

INHIBITER afterwards adjudging, found preferable to rights granted after inhibition, and before his adjudication, not only for the sums contained in his inhibition, *i. e.* principal annualrents and penalty of the bond on which the inhibition proceeded, but also for the accumulated sum in his adjudication and interest thereof, which is all secured by the inhibition;—and adhered to 2d June 1742. *Vide* Corsan and Rae's Case, No. 4. *Vide* Cleugh *against* Seller, No. 11. (See DICT. No. 119. p. 7053.)

\* \* The Lords pronounced the like interlocutor in another Case, 5th February 1742, Nisbet *against* Baillie. (DICT. No. 118. p. 7053.)

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1743. *July 19.* TUDHOPE *against* His WIFE and CHILDREN.

No. 9.

INHIBITION being duly served on a bond of provision by a man to secure 4000 merks to himself in liferent, and to his wife to a certain extent in liferent, and the children in fee, and providing also certain proportions of the conquest to the wife in liferent, and to the children in fee, and having sold lands, he, to purge this incumbrance, raised reduction *against* his wife and children of this inhibition. Sustained the reasons *quoad* the conquest, and repelled them *quoad* the wife's special liferent of the sum. Reported it as to the children's interest in the sum. The report was *ex parte*, and the Lords sustained the reasons as to the children, for they looked on the father as *fiar*.

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1749. *February 22.*

ROBERT BLACKWOOD *against* MARSHALL and WILSON.

No. 10.

A COMPLAINT was offered of an inhibition on a decret of Session that it was invidious, because the debtor was solvent, but would not pay, because, as was supposed, he intended to appeal. The complaint was refused, (but only by one voice.) The Court was equally divided. (See DICT. No. 51. p. 6982.)