

and this Earl having granted a bond of corroboration in *anno* 1642, bearing annualrent also,

No 106.

THE LORDS found, that the bond of corroboration belongs to the heir, as accessory to the principal bond, which is heritable; and the executors also concurred.

*Fol. Dic. v. 1. p. 372. Gilmour, No 102. p. 78.*

1671. November 22. ALEXANDER ORD *against* GRISSSEL EDMONSTON.

No 107.

JAMES and DAVID RAMSAYS being debtors to William Edmonston by bond, in the sum of 600 merks, which was a moveable bond, thereafter did grant a bond of corroboration for the said sum, and bygone annualrents, extending to 800 merks, bearing a precept of sasine, wherein there was a provision, notwithstanding, to seek payment upon the first bond, and that the last was without prejudice thereof. Thereafter, being upon death-bed, he did leave in legacy the said sum to two of his daughters; but William Ord having comprised the saids bonds from the apparent heir, did thereupon pursue the debtor, who did raise a double poinding. It was *alleged* for the legatars, That they ought to be preferred, because the first bond was unquestionably moveable, and was not innovated nor taken away by the bond of corroboration; whereby the said William had reserved to himself a faculty and power to make use thereof, which accordingly he had exercised, by leaving the same in legacy to his daughters, but did never take infestment upon the last bond. It was *answered* for the compriser, That, by the bond of corroboration bearing an obligation to infest, and precept of sasine, it made the sum heritable by act of Parliament 1641, and could not be left in legacy; likewise, the legacy did relate to the sum of 800 merks contained in the last bond, and not in the first.—THE LORDS did find the said sum to be heritable, and that it did belong to the compriser.

An heritable bond of corroboration makes the sum, in a moveable bond, heritable.

*Fol. Dic. v. 1. p. 372. Gosford, MS. No 398. p. 199.*

1676. February 18. WAUGH *against* JAMIESON.

No 108.

LANDS being disposed to a man by a near friend under back-bond, bearing to be for security of 2,400 merks already due, and obliging himself to denude upon payment of that sum, and of what other sums he should advance; and the disposer having thereafter granted to the same party a bond for 5,000 merks, bearing no relation to the said security, but being a simple moveable bond to him, his heirs, executors, &c.; the LORDS found, that this bond, in so far as it should be made appear to be made up of the sum mentioned in the back-bond, should belong to the heir of the trustee, because *ab initio* the said security was granted for the same, but that the residue should belong to his executors, as in its nature