

the mother's, whose executors were not excluded as his were. For by the Act of Parliament 1661, an express seclusion of executors is necessary to make a bond that is moveable, *quoad debitorem*, become heritable as to the creditor. And as a bond to a person, without mention of his assignees, is assignable: so must a bond without the adjection of heirs or executors, fall under confirmation.

ANSWERED for the suspender,—The provisions not being real, affecting the disposition, but only personal obligations upon the mother, notwithstanding whereof the right of the subject disposed, remained with her heirs until they be habily denuded by a sentence. 2. Though the bond had been disposed to the mother, her heirs and executors *per expressum*, it would not thereby have been rendered moveable in her person: far less can the destination be presumed altered from heritable to moveable, by the disposition to her, without mention of executors: because a bond secluding executors, is in a manner more heritable than one upon which infertment hath followed; in so far as a charge of horning would render the latter moveable, and not the former.

The Lords found, That, in respect the assignation to Martha Lindsay bears in *gremio* to be for the charger's behoof, there is no necessity for serving the charger heir to her mother. That which seemed to influence the Lords in this decision was the practick, 9th June, 1669, Street *contra* Home.

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1708. Feb. 24. JOHN Earl of MARR *against* The FEUARS of Bothkenner. .

IN the process at the instance of John Earl of Marr against the feuars of Bothkenner, immemorial use of payment was found to determine the quality of *bollas frumenti* contained in the *reddendo* of the defenders' feu-charters, to be wheat.

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1708. Feb. 28. [ANENT PROTESTATIONS for REMEID of LAW.]

The Lords peremptorily discharged any advocate in any case to protest for remeid of law by the general warrant of his gown, in the name of his client; without a special mandate from the client.

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1708. June 16. and November 27. The TAILORS of the CANONGATE *against* the TAILORS of EDINBURGH.

THE town of Edinburgh granted to the tailors there a seal of cause, in the year 1531, ratified by King James V. and another in the year 1584, ratified by King James VI. bearing "That the tailors of Edinburgh were heavily hurt and pre-