

No 17.

1678. July 29.

MORRICE *against* ORROCK.

It being objected against a bond, upon which an apprising was founded, that it was only registered in the jurisdiction where the creditor lived, and not where the debtor lived, the LORDS, considering that *ex officio* they might supply defects in apprisings, to make them subsist as securities for the just interest, without the extraordinary advantages of an expired legal, and exorbitant penalties, did declare, that if the defender would restrict his whole apprising to the just interest, they would then sustain this apprising for the whole sums, otherwise that they would reduce it *in toto*.

Fol. Dic. v. 1. p. 537. Fountainhall, MS. Stair.

* * This case is No 142. p. 7425. *voce* JURISDICTION.

1724. February 1.

JAMES MUIR, Merchant in Edinburgh, *against* MARGARET STIRLING.

No 18.

A horning was raised on a bond before the term of payment, but not signeted till after that term. An arrestment used upon the horning was sustained.

LYON of Bridgeton was debtor by bond to Mr John Stirling, who assigned the same to James Muir, and the assignation was duly intimated.

Bridgeton being charged by Muir to make payment of the sum in the bond, he suspended upon a multiplepoinding, in which compearance was made for Margaret Stirling, a creditor by bond to Mr John; and preference was craved for her, upon an arrestment laid on at her instance prior to the intimation of Muir's assignation.

It was *objected* by Muir, That the arrestment was null, the horning, by virtue whereof it was laid on, wanting a warrant, in so far as the bond was registered before the term of payment, which could not legally be done, since the debtor, by his consent in the clause of registration, had stipulated for himself a forbearance till such a term, before which no decret of registration *ad executionem* could go against him.

Answered for Stirling, That she could registrate her bond at any time; and though the horning was raised before the term of payment, yet it was not signed till thereafter; and so both horning and arrestment were warrantable, and being prior to the intimation, ought to be preferred.

THE LORD COWPER Ordinary preferred Margaret Stirling, in respect of the priority of her arrestment to the intimation of the assignation, and decerned; to which interlocutor the LORDS adhered.

For the Assignee, *Ja. Morison.*

Fol. Dic. v. 3. p. 380. Edgar, p. 19.