

1696. January 29. WILSON and LOGAN against PENMAN.

No 103.

An inhibition was found to affect not only a bond of corroboration, of a debt prior to the inhibition, but an adjudication following thereon; which was not restricted to the amount of the original debt, but reduced *in toto*.

MERSINGTON reported the competition between William Wilson and Logan against Penman, Trumbull of Curie's relict, and other Creditors of Hagbine. It was *objected* against one of their adjudications, that it was allenarly led and deduced on a bond of corroboration, which bond being posterior to my inhibition, it was reducible by the same. *Answered*, In so far as any benefit or advantage accresced to the creditor by the bond of corroboration, such as the accumulating bygone annualrents, and turning them into a principal sum, or the like, he acknowledged all these were struck off by the inhibition; but in so far as the sum precisely coincided and agreed with the bonds corroborated, the diligence by adjudication ought to subsist and stand good. *Replied*, If the adjudication had been led upon both, then it would have been good, but seeing it mentioned nothing but the last bond of corroboration, *sublato fundamento corruiit accessorium*. *Duplied*, The bond of corroboration narrates the first bond, which is sufficient to sustain the adjudication. THE LORDS, by plurality, found the inhibition did not only cut off the bond of corroboration, but also the adjudication led thereon, and found it null *in toto*. Sundry of the LORDS were for restricting the diligence to subsist *quoad* the sums contained in the first bonds corroborated, as both were equitable and favourable; though *in rigore juris* the other opinion may hold.

*Fol. Dic. v. 1. p. 474. Fountainhall, v. 1. p. 706.*

1700. July 3. OSBURN against DUNBAR.

No 104.

A minor, in a disposition, bound himself to renew it, when major. The new disposition, which did not refer particularly to the first, was challenged *ex capite inhibitionis*. It was supported.

HALCRAIG reported the reduction *ex capite inhibitionis*, pursued by John Osburn writer in Edinburgh, against Alexander Dunbar taylor in the Canongate. Dunbar of Thurston disposes some tenements to the said Alexander Dunbar, and obliges himself to reiterate and renew the same; and at this time he wants some months of his majority. Being major, he gives a bond for L. 763 to John Osburn, who thereupon serves an inhibition; after which, he grants to Alexander Dunbar a new disposition of the same tenements, and some others, for security of his former debt, but without any special relation to the prior disposition, or the obligation therein contained to renew it, but only on this narrative, that it was just that Alexander should be fully secured for his money; and on this second disposition he is infest. Osburn craves the second disposition may be reduced, as posterior to his inhibition. *Answered*, Though it be not expressly relative and for implement of the first, yet it had sufficient relation by the presumption and construction of law; seeing Thurston was specifically obliged to reiterate and renew the same; which he has effectually done, by