

1629. *January 24.* DICKSON *against* L. URTHILL.

Two creditors to one common debtor contending for a sum owing to them, it was found, that an inhibition used by the one creditor against the common debtor was no impediment to him to make, nor to the other to receive, an assignation to that debt controverted, albeit made after the inhibition executed, the same being made for satisfying of the debt owing to that creditor before the inhibition; albeit the inhibition might be an impediment to the common debtor to contract new debts after the executing thereof, which might hinder the inhibitor in his lawful execution, competent to him by virtue of that inhibition; which would appear to be understood anent contracting of debts thereafter, which may affect heritable rights, whereupon inhibition only struck, but not for moveables which are affected with other manner of diligence.

Act. *Advocatus et Crsig.*

Alt. *Nicolson et Gibson.*

Clerk, *Gibson.*

Fol. Dic. v. 1. p. 473. Durie, p. 418.

No 82.

Inhibition hinders not the conveyance of moveable debts.

1630. *July 2.* DOUGLAS, Minister of Balmerinloch, *against* JOHNSTON.

IN a reduction at the pursuer's instance, upon an inhibition raised against the debtor upon his bond, of a sum of money, for reducing of a posterior bond of a sum of money granted to Johnston, after the said inhibition, and whereupon Johnston had comprised the common debtor's lands, and was thereon infest; this reason and action upon the inhibition was sustained, to reduce the said bond, albeit it was of a moveable sum, in so far as might be a ground to comprise, or take away any heritable right from the debtor, to the pursuer's hurt, but not to stay either personal execution, or payment by the debtor's moveables; upon which the LORDS found the inhibition struck not, but only that it should be effectual for his heritage, or such like real securities.

Act. —.

Alt. *Mowat.*

Clerk, *Hay.*

Durie, p. 523.

No 83.

Found as above.

1631. *February 22.*

L. CORSBIE *against* ACHESON.

CORSBIE, as cautioner for Sir G. Home of Eccles, having paid the debt, and thereupon serving inhibition, bearing, that none of the lieges, directly or indirectly, bargain with Sir George anent his lands, heritages, alienations, dispositions, or contract thereanent, &c. upon which inhibition he intents reduction of a bond, granted thereafter by Sir George to Gilbert Acheson, upon some debt of monies, whereupon he comprised, and was infest. And the defender

No 84.

Inhibition strikes against after-bonds, in so far as they are the foundation of apprising, but not in so far as they are

No 84.
the ground of
diligence a-
gainst the
debtor's per-
son or move-
ables.

alleging, That this inhibition of this tenor could not furnish him action to reduce his bond, albeit posterior to the inhibition, seeing the prohibition extended only to the contracting anent his lands, and contained no warrant to discharge him to grant bonds on borrowed money, or the lieges to receive the same; this allegiance was repelled; for the LORDS found the inhibition of the tenor foresaid sufficient to reduce posterior bonds of money, albeit not bearing lands to be disposed therefor, in so far as these bonds might be grounds and warrants to deduce comprisings thereupon of the party's lands; but in so far as personal execution might be used against the party upon that bond, or pouding, or arrestment, or other execution upon his moveable goods, the LORDS found, that the inhibition could not strike thereupon, and that the bond could not be reduced, to want that sort of execution.

A&. Craig.

Alt. Nielson.

Clerk, Gibson.

Fol. Dic. v. 1. p. 473. Durie, p. 574.

* * * Auchinleck reports this case :

1631. *February 23.*—THE LAIRD of Crosbie pursues reduction of a bond given to Gilbert Aitchieson, Bailie in Edinburgh, by Sir George Home of Eccles, because he had served inhibition against the said Sir George, upon a bond granted by the said Sir George to Captain Donaldson, whereunto the Laird of Crosbie was made assignee. To which reason of reduction it was *answered*, That the words of the inhibition made no mention to inhibit the lieges from taking of bonds from the person inhibited. To which it was *replied*, That the exception ought to be repelled; because, Gilbert Aitchieson had, by virtue of the said bond, comprised Sir George's lands, and had obtained infeftment upon the said comprising. THE LORDS repelled the exception, in respect of the reply.

In the same action it was *alleged*, That, although the bond be posterior to the inhibition, yet the cause of the bond was for merchandize furnished preceding the inhibition, which Gilbert Aitchieson offered to prove by witnesses. THE LORDS would not take away the force of the inhibition, by deposition of witnesses.

Auchinleck, MS. p. 109.

1667. *February 27.*

MR JOHN ELIES *against* WISHART & KEITH.

No 85.
Inhibition af-
fects both *ac-*
quisita et ac-
quirenda.

A wadset be-
ing acquired

MR JOHN ELIES having inhibited Elizabeth Keith his debtor, she did there- after acquire a wadset of certain lands within the shire, where the inhibition was published, and thereafter, upon payment of part of the sums, the wadset right was renounced *pro tanto*; and the rest being consigned, there is now a process of declarator of redemption, wherein Mr John Elies compares, and