

1666. *July 12.*BRUCE *against* STEWART.

IN this cause, found that a clause on a margin of a bond or contract, is not obligatory if not subscribed; but if the granter of the bond write on the margin with his own hand, (so that the body of the bond and the clause in the margin be holograph,) though he subscribe it not, it will be more dubious if that clause marginal be obligatory or not: as in the case of the bond of provision granted by the *Laird of Durie* to his daughter: which is not decided.

*Act.* Lockhart.*Alt.* Sinclair.*Advocates' MS. folio 56.*1666. *July 20.*JACK *against* JACK.

IN this case, found that all assignations granted by a father to his children, even though not *aliunde* provided, and albeit not known to be bankrupt, being made after debt contracted by him, are null by the act 1621: or if the assignation or bond was granted by a third party, by the father's means and moyen to his children, they being *in familia*, found it to be a donation, and in that same case as if it were made by the father, and subject to the payment of the father's debts. Also found, that a creditor having comprised the fee of that sum from the bairns was also null *in consequentia*; but this last was not reported; whereas the Lords inclined that if the children, who were fiars of the sum granted to them by their father, had for an onerous cause assigned or disposed that fee to their creditors before the reduction, that then the same would not fall *in consequentia*. For they found a great difference, by the act of Parliament, of dispositions made by a conjunct person to his creditors, and of comprisings led against them at the instance of creditors; and that though a right may be reduced, upon the act of Parliament so long as it stands in the person of the children, as being conjunct persons: and yet if it be disposed to creditors by the children, they found it not to fall under the compass of the act of Parliament, but found it more favourable in the creditor's person. But why a creditor comprised ought not to be as favourable, I see no reason: but the reason it seems is the express tenor of the act of Parliament.

*Act.* Lockhart. *Alt.* Wedderburne, Mackenzie, and Dinmuire.*Advocates' MS. folio 56.*1666. *November 10.*DOUNIE *against* YOUNG.

IN this case found, That an executor recovering a sentence in his own lifetime, albeit he get no payment nor intromit with the sum decerned, yet that sentence makes the testament to be *executum in quantum*; and there is no place to a *dative*