

LEGAL DILIGENCE.

S E C T. I.

An heritable bond, when it becomes Personal, so as to be the foundation of Diligence.

1615. *December 14.* MOWAT *against* CREDITORS OF RICHARDSON.

IN an action of quadruple poinding, pursued by Alexander Mowat against the Creditors of George Richardson, the LORDS found, that one Homer could not make arrestment, because, at the making thereof, his bond was heritable, and sasine was given to him of an annualrent for the same; and albeit there was a provision in the bond, that it should be lawful to charge for the principal without requisition, yet before that charge the sum remained heritable, and so they preferred one George Smith to Homer.

Fol. Dic. v. 1. p. 536. Kerse, MS. fol. 47.

No 1.

1622. *July 20.*

MR ALEXANDER GIBSON CLERK and JOHN CRANSTON *against* The LAIRD OF LUGTON and Young EASTNISSET.

BONDS heritable cannot be moveable by virtue of the provision therein contained, that it shall be lawful to charge for the principal but requisition, except there be a charge used conform to the provision.

No 2.

Comprising laid upon a bond bearing infestment, found null, notwithstanding of the provision contained therein, that it should be lawful to charge for the principal sum without requisition, because there was no charge used upon the bond before the denunciation, without the which charge, the LORDS found, that