*N. 1. where persons owing a sum to him and 19 years Interest thereof did upon the Creditors superseding any Demand of payment till a subsequent Term, granted to him a Bond to pay at that Term the whole sum with the Arrears that should be then due, and in case of Failure to accumulate those Arrears with the principal, and to pay Arrear for the accumulate sum from that Term: The Bond was found not to be an usurious but a lawful paction.

February 1718 Sinclair of Barack contra Sutherland of Little-Torbol. Barrens no poachers disallow'd as usurious Bonds at impose higher Interest and harder conditions on the debtor than the creditor has Right to demand, as when Interest upon Interest is stipulated by the primary and original obligation: which was done the creditor had not exacted so much as he might have done, by making the debtors pay or accumulate at the date of the Bond 19 years Interest with the principal sum bearing Arrear from that Time.

heritable.

*N. 2. A sum is reckoned moveable if the creditor die before the Term of payment be made by dyting a Term to the Payment declares his Intention to apply his money, where Animus shall always a strong Ingredient in determining of its nature, is what moveable: But when he forbears the Term without calling for the sum, he is understood to trust it in the debtors hand upon the security subsisting it to take Effect according to the nature of it.

This when the debtor in an Heritable Bond having a clause of Infeftment died before the Term of payment and the debt was afterwards paid by his Heir; the Bond was found to be moveable and a charge of Relief thereon sustained to the Heir against the debtors Executor out of the Moveables. Albert it was pleaded for the Executor, That the Rule concerning Heritable sums being moveable before the Term of payment takes only as to Bonds not simply heritable but in a certain Respect as personal Bonds bearing Arrent which are heritable only as to the Fisk and Relict. He a Bond excluding Exors, tho' moveable in natura, goes to the Heir when where the Creditor dies before the Term of payment: So an Heritable Bond which of its own Nature and by the Granters express design in the precept of Sasine becomes a charge upon the Heritage without Regard to the Time of the debtors death, which other Influences the creditors decease before the Term of payment might have in determining the Right of succession to the sum. Nay, when in the case of the creditors dying before the Term of payment of an Heritable Bond, his Heir only could have and obtain himself infeft in the Lands for security of the sum, and so might have Right to the debt itself. In Respect it was Answered, If before the year 1641 Bonds bearing a rent were heritable and yet remained moveable until the Term of payment; why should not Bonds Heritable by a clause of Infeftment without Sasine taken thereon remain also moveable till the Term of payment: seeing the taking or granting a Bond in either manner indicates the parties Intention to have the sum hereditably secured? There's a great disparity betwixt a Bond excluding Exors and a Bond granted to Heirs and Exors containing a clause of Infeftment: The former being Heritable ab initio quoad creditorem, not so much because provided to the Heir, as that Exors are expressly barred; whereas the Bond in question is payable to Heirs and Exors, and the clause of Infeftment being only conditional upon case of not payment at the Term, takes no Effect till the Term elapse without payment made, so that the sum is not heritable quoad creditorem till then. Again, if the creditor in a Bond Heritable by a clause of Infeftment dies before the Term of payment, his Exors and not his Heir, has the sole Right both to the sum, and to the accessory security of Infeftment. As the Exors, and not the Heir, of a creditor in an Infeftment of Arrent, has Real Action of poinding the Ground for bygones upon the Infeftment. February 1718 Robert Fisher contra Marion Gringle.

*N. 1. For when any person comes under an obligation binding by the Laws of the country where it is contracted whether by voluntary agreement or the final sentence of a superior court in the jurisdiction where it was pronounced, the foreign court of any other, however distinct and independent country, is by the Law of nations obliged to interpose its Authority for making the same effectual and to execute against the effects of the person which may be found under their jurisdiction or against both person and effects wherever it happens that he withdrawing himself from the place by the Laws of which he had become bound: and no prejudice do thence arise to the Jurisdiction, privileges and Laws of the place where performance of the obligation is provided, or the decree crav'd to have execution. For where the Law of a foreign Nation statutes what is not prohibited by the Laws of Scotland, a decree upon such a Law may very well take effect here, and yet nothing follow inconsistent with our constitution or encroaching upon our Jurisdiction. But such obligation by the Law of nations is rather constitutive than necessitatis, and therefore to make the same effectual among distinct Independent Nations Litere Regatorie or Requisitoriae are used. Jo. Bost commentat. ff. de Re judicata § 41.

*N. 2. now that we are come under the same Legislative and have the same ultimate court of Justice; the mutual Assistance of the federal supreme Courts independent of one another is become necessitatis and needs not be requested as a favour; seeing if such mutual Assistance were not given, the Affairs of the subject would be inextricable.

Thus a Woman against whom a decree in the court of Kings Bench was pronounced having to obtain the effect thereof retired to Scotland and the obtainer of the said decree having also laid an Action against her there before the court of Session, founded on the English decree, execution was sustained to pass on the said decree as probatio probata in Scotland, unless something competent in Law or Equity be objected against it. 29 December 1720 Helenor Edwards Marchal in London contra Catharin Prescot of London now Residenter in Holso. again, a decree of the court of Kings Bench being obtained against one as Cashier to and Intromitter with the Effects of a trading company whereof the plaintiff was a partner and the plaintiff having applied to the Lords of Session craving that they would interpose their Authority in order to Execution of that decree in Scotland. The