

**Case No. 5,990.** HAMILTON v. SIMMS.

{Brunner, Col. Cas. 25;<sup>3</sup> 2 Hayw. N. C. 291.}

Circuit Court, D. North Carolina.

Dec., 1803.

HEIR—LIABILITY FOR DEBTS OF ANCESTOR.

If the heir, in an action against him on the bond of his ancestor, plead nothing by descent or devise, and it be found against him, judgment shall be de bonis propriis.

At law.

PER CURIAM. This is a debt upon bond against the heir of the obligor; and if the plea of nothing by descent or devise be falsified by verdict, the judgment will be de bonis

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propriis of the heir or devisee. And it will not help the defendant if the jury should find the value of the land on such issue, for still the court would give the judgment against the defendant in jure proprio for the whole debt Thereupon this plea was by consent withdrawn, and the lands devolved to the defendant in remainder set forth in a new plea.

<sup>3</sup> [Reported by Albert Brunner. Esq., and here reprinted by permission.]