

No. 5.

1735. *June 26.* WATSON of Saughton, *against* Mr. JAMES BAILLIE.

THE burden of proving the rental and value is upon the creditor, who may possess the hail subjects adjudged, (by special adjudication,) and cannot be restricted to his annualrents. *Vide* No. 9.

1736. *January 16.*

HORSEBURGH, and other CREDITORS of Sir ALEXANDER HOPE, *against* Sir ALEXANDER HOPE.

No. 6.

THE Lords thought the clause in the act 1661, for restricting an adjudger's possession to his annualrents not temporary, but perpetual, and seemed to have no difficulty to restrict the creditors possession to their current annualrents, had there not been so many bygoners, which that would not answer, and could not remain a dead stock, and therefore remitted to the Ordinary to examine into the fact.

1736. *January 28.* CREDITORS of FALAHILL, *Competing.*

No. 7.

What ought to be the consequence of reducing an adjudication to a security?

ADJUDICATION, if at all sustained, even as a security, ought to be ranked according to known rules of preference of adjudications, and therefore a nullity being objected against an adjudication, and sustained by the ordinary *ad effectum* to restrict the adjudication, (which had the first infestment, and was year and day before all the rest) and the creditors preference thereon to a *pari passu* preference with the other adjudgers. The Lords adhered, but added the reason, viz. because the creditors did not insist to annul the adjudication, but only to be preferred *pari passu* with it. The nullity was, that the extractor omitted several steps of procedure, and made out a decree in absence when there had been a debate, that is, representation and answers, and writs produced, and interlocutors founded on them.

1736. *December 7.* RAMSAY of Williecleugh *against* BROWNLIE.

No. 8.

THE legal reversion, introduced by the act 1661, of apprisings, whereof the legal had been run before the date of that act, but after 1652 extending them to 1664, did not run against minors, no more than the other legal of 10 years introduced by the said act instead of seven years. See No 20. (See DICT. No. 6. p. 211.)