

fender should clear accounts within six months thereafter; which was not done.—
 THE LORDS restricted the adjudication to the principal, annualrents, and composition paid to the superior, without accumulation of annualrent upon annualrent; and found, That the adjudication being in absence, without probation of the rental of the lands adjudged, albeit the creditor behoved to libel a fifth part more in his summons, being uncertain whether the debtor would compare or not; yet, that the creditor ought not to have extracted a decret for the fifth part more, seeing the adjudication did pass, of the whole estate.*

Fol. Dic. v. 1. p. 6. Sir P. Home, MS. v. 1. No 40.

No 2.

1682. *March.* LORD CARDROSS *against* COLVILL.

THE LORDS found, That a citation in an adjudication, interveening between a disposition and infeftment, was no *medium impeditum*; the infeftment on the disposition, being before the perfecting of the adjudication. And the act of Parliament equiparates the citation to a comprising, viz. A citation to a denunciation, and an adjudication to a decret of apprising.

Harcarfe, (COMPRISING,) No 278. p. 66.

No 3.
 Effect of citation.

1683. *March.* KER *against* RUTHVEN.

PATRICK KER of Farnily, having obtained a decret against Edward Ruthven; as representing the Earl of Bamford, his grand-father, for payment of the sum of 5000 merks, and annualrents contained in his grand-father's bond; which, being assigned to Mr William Weir advocate, and he having adjudged from Edward Ruthven, upon the late act of Parliament concerning adjudications, so much of the sum of 1600 merks; for security of which, Edward Ruthven was infeft in an yearly annualrent out of the Earl of Callendar's estate, as did effeir and correspond to the principal sum and annualrent, contained in the said bond, and a fifth part more, conform to the act of Parliament; and the adjudication being disposed to Mr David Mayne writer, and he having distressed the Earl of Callendar, he raised a suspension of double poinding against Mr David Mayne and Edward Ruthven.—It was *alleged* for Edward Ruthven, That the adjudication ought to be restricted to the principal sum and annualrents; and the adjudger

No 4.
 A fifth part more, may be included in adjudications of rights of annualrent.

* This case is also reported by President Falconer, thus:—In an action of reduction, pursued at the instance of Geddie against Telfer, of several adjudications, deduced against Geddie, whereunto Telfer had right; the LORDS found the following reason of reduction, relevant to retrench the principal sum and annualrents, and composition paid to the superior, without accumulation of annualrent upon annualrent, viz. That the adjudication being in absence, without probation of the rental of the lands adjudged, the decret bore a fifth part more; which the LORDS found, because, albeit the creditor behoved to libel the same in his summons, being uncertain whether the debtor would compare or not; yet that he ought not to have extracted a decret therefor, when the party did not compare.

President Falconer, No 6. p. 3.