

was nor could be any infestment for denuding the creditor, who stood not infest, the act takes no place, but the adjudications are preferable according to their dates.

No 15.

It was *answered* ; The reason expressed in the act is general, relating to all creditors doing diligence, and considers the prejudice of creditors who are at a great distance, whereby the debtor's estate is comprised, which word *estate* comprehends all comprisable subjects ; and then considers the prejudice of creditors, who have nothing but legal reversion ; and for remeid thereof, statutes that all comprisings within year and day of the first effectual comprising shall come in *pari passu* ; and what follows for clearing an effectual comprising, is indeed to be understood only of comprising of lands or real rights, because in that case an apprising, without an infestment or charge, is but personal, and a posterior apprising with an infestment is preferable ; but an apprising of a personal right is complete and effectual from the date.

' THE LORDS found that the adjudgers ought to come in *pari passu*.' See No 14. p. 140., and No 41. p. 703.

*Fol. Dic. v. 1. p. 179. Dalrymple, No 63. p. 79.*

1724. January 8.

SYME *against* DALZELL.

IN a competition betwixt two creditors of a defunct, about the rents of the estate falling due after the debtor's death ; both having obtained decrees of constitution against the apparent heir ; the one upon an arrestment laid on in the tenant's hands as debtors to the apparent heir, obtained furthcoming ; the other upon a charge to enter heir, obtained adjudication some months thereafter. THE LORDS preferred the arrester, though it was urged, that an apparent heir has no proper title to the rents, and that they cannot be made furthcoming for his debt. See APPARENT HEIR.

No 16.

*Fol. Dic. v. 1. p. 179.*

1758. July 18.

GILBERT JACKSON, and Others *against* JAMES HALIDAY, and Others.

ON the 5th November 1750, William Ferguson disposed his lands of Cairloch to Duke and Brown ; and they became bound to redeem these lands from Mr Heron, to whom they had been disposed under reversion, and to grant back-bond to Ferguson, declaring the lands redeemable between and Martinmas 1751, upon payment of debts due to them, and of the redemption-money they were to pay to Heron ; under condition, ' That if Ferguson should not redeem at Martinmas 1751, they should be at liberty to sell the lands by public roup, and

No 17.

A creditor held lands, with a power to sell (if not redeemed within a limited time), and to account for the price ; ano-