

(The LEGAL-)

No 10.

vitiatur: Especially, considering that the infeftment of annualrent granted to the Blackburns, was in effect two infeftments, for *concurfu partes faciebant*, and *nomina debitorum ipso jure dividuntur*, though a conjunct disposition of lands makes heritors *pro indiviso*. Thus, an adjudication led by a creditor for different bonds, if formal for one bond which is not paid within the legal, will expire, though informal as to the rest, July 6th 1699, Hay of Alderston against Children of Aberlady, (No 8. *supra*.)

To which it was *answered* for Colonel Erskine, That an adjudication for several fums, whereof some are found not to be due, useth to be sustained as a security for principal and annualrent, but not to expire as to the legal, November 23d 1677, Boid and Graham against Malloch, (Stair, v. 2. p. 565. See BONA et MALA FIDES, &c.); July 20th 1678, Morrice against Orrock, (Stair, v. 2. p. 637. See JURISDICTION.); in both which cases, the libels were articulate. Apprisings led for more than is due, are opened partly *in odium plus petitionis*; partly, for that the leading adjudication for more fums than are due, hinders the debtor from offering to redeem; and also because of the exorbitant penal consequence of an expired legal, the Lords do grasp at any reason to keep it open. 2do, Sir George is not here in the case of one adjudging *articulatum* for several fums; this adjudication being for the bygones of an annualrent effeiring to a fum. Nor are the annualrents *articulatum* libelled, the half as conveyed from Thomas, and the other half as flowing from Richard; but simply the whole annualrents from the 1649, to the 1680. So that the case here is the same, as if Sir Robert Mill had adjudged for one fum, to the half whereof only he had right. The decision Hay of Alderston against Aberlady's Children, cannot be applied: For there was nothing there to hinder the adjudication to expire, as to all the fums for which it was led; only the adjudger might have been debarred *personali objectione* from making use of the fums contracted after inhibition, to the prejudice of the inhibitor. (See OF the DEBT which is the FOUNDATION of the Diligence.)

Forbes, p. 635.

1739. July 24.

CREDITORS of Bonhard.

No 11.

During the legal, casualties fall by the death of the reverfer, not of the appriser.

THE casualties of superiority were found to fall during the legal, by the death, not of the appriser, though he should be both infeft and in possession, but of the reverfer. (See the particulars, from Kilkerran, SUPERIOR and VASSAL, p. 527. under the Title VASSAL in this Dictionary.)

Fol. Dic. v. 3. p. 12.

* * See Waldie against Ancrum, from Kilkerran, p. 11. under the Title PERSONAL OBJECTION.