

1741. *February 20.*

YOUNGER CHILDREN of ALEXANDER GUTHRIE, *Supplicants.*

No. 29.

Horning against superiors upon an adjudication in implement, will not pass without an abbreviate.

ABBREVIATES are necessary now by the regulations 1696, upon adjudications in implement upon decreets *cognitionis causa*, as well as on adjudications introduced in place of apprising by the act 1672; and therefore horning against superiors was refused on such an adjudication without an abbreviate, *me referente*. The question first arose between the parties' agent and Mr Inglis, depute-clerk of the bills, who stopt the bill of horning for want of the abbreviate: The constant style of the deliverance of these bills being, 'Because the Lords have seen the decret of adjudication and 'abbreviate thereof.' See the case of King, No. 35. (See DICT. No. 3. p. 204.)

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1741. *July 15.* SPREULL *against* SPREULL CRAWFURD.

No. 30.

ADJUDGER acquiring right to the reversion, which right was afterwards reduced upon fraud, the legal cannot expire while that right remains unreduced. *2dly*, The adjudger having by a transaction, by conveying to other adjudgers his right as to certain subjects, (in order to their selling them) but reserving them as to others, for which he got 7000 merks, he was obliged to impute that sum in part payment of the sums due to him. See 25th July, and 12th December, 1733, and 15th July 1741. *inter Eosd. voce* TRUST. See No. 25.

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1741. *July 23.*

EARL of ABERDEEN *against* CREDITORS of SCOTT of Blair.

No. 31.

Mode of application of payments obtained by an adjudger.

AN adjudger, some years after his adjudication, recovering a partial payment on a furthcoming, and some more years thereafter recovering another partial payment, in a ranking of his debtor's estate, (at least of one of them,) the Lords allowed him to apply the payment recovered on the furthcoming to the payment of the annualrents growing due on his bond after his adjudication to preserve it entire; whereas, had it been applied to the annualrents first due on his bond, it would have extinguished so much of his accumulate sum. *2dly*, They imputed the payment recovered in the ranking first to the annualrents of his accumulate sum, and next to the

accumulate sum itself *pro tanto*; and as there had been so many diligences already deduced, and a large balance yet resting, for which he was pursuing another furthcoming, they would not restrict the penalty.

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1741. *November 17.* CREDITORS of STEUART of Castlehill, *Competing.*

No. 32.

THE Lords found that a charge against the superior, without offering a year's rent and a charter, is sufficient to make an adjudication the first effectual one, notwithstanding that a posterior adjudger had obtained charter and sasine; and that the posterior adjudger was not entitled to the expenses of his infetment from the co-adjudgers.

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1742. *February 27.* GILBERT STEUART *against* Mr. DAVID COUPAR.

No. 33.

ADJUDGER of an annualrent charging the superior of the annualrent, who is also proprietor of the lands, having bought them from the original debtor in the annualrent, and therefore having also the right of reversion of the annualrent; found not liable in a year's annualrent, nor any other composition to him for an entry to him as adjudger, this being only a security for money with which the lands belonging to the superior of the annualrent is burdened.

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1742. *July 20.* HUNTER of Lochreny *against* HUNTERS.

No. 34.

THE objection against a declarator of expiry sustained, That the special charge was blank in the lands, notwithstanding the person charged afterwards entered heir in the lands, and notwithstanding it was after 20 years, in respect the pursuer himself produced the special charge.

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1742. *December 14.* KING *against* ———

No. 35.

ADJUDICATION *cognitionis causa.* Horning on such an adjudication pronounced by a Sheriff, refused against superiors, in respect there was no abbreviate made, though such hornings use to be granted on these adjudications by inferior Courts when they record the abbreviate, albeit there appeared to us no law authorising even in that case. On a reclaiming bill, adhered. See No. 29. (See DICT. No. 22. p. 5743.)