

(Pars pericula potentis.)

favore creditorum; these considerations have no place in adjudications in implementation. See M'DOUGALL against L. GLENTARCHIE, 24th June 1663, p. 51. v. I. Quarto Dictionary from Stair.

No 21.

1667. February 9. ELIZABETH RAMSAY against KER of Westnisbet.

ELIZABETH RAMSAY having pursued an adjudication of certain lands, upon the renunciation of Barbara Nisbet, insists upon that member of the summons against the superior John Ker, that he should receive and infect her; who alleged no process, unless the pursuer show the right of the former vassal, whose heir had renounced; for the pursuer can be in no better case than the apparent heir, who, if she were craving to be entered, behoved to instruct her predecessor's right. The pursuer answered, That her adjudication against the defender, as superior, is in common form, which has ever been sustained upon good ground, because a creditor has no interest to have his debtor's rights, when he is seeking adjudication, which must be his title to demand the rights; but the superior is obliged by law to receive the adjudger, without instructing any right farther than the adjudication, which has been frequently so found in the case of apprifers.

THE LORDS having considered the case, and parallel with that of apprifers, found this difference, that superiors got a year's rent for receiving apprifers, but not adjudgers; yet in respect of the common custom of these summonses, they repelled the defence, and decerned the superior to receive the pursuer, *salvo jure cujuslibet et suo*.

Fol. Dic. v. I. p. 13. Stair, v. I. p. 440.

EXCEPTIONS against adjudication after it is led, how proponable. See COMPROMISE.

ALLOWANCE of APPRISING, and ABBREVIATE of ADJUDICATION.

1630. July 27. GILMOR against GILMOR.

A COMPRISING was sustained, upon which infection had followed, although not allowed; because the LORDS allowance is only craved, to the effect, that charges may be obtained thereupon against the superior.

*Fol. Dic. v. I. p. 13. From Auchinleck, (COMPRISING.) MS. **

No 1.

* This MS. is not in the Advocate's Library.