

No 13. sengers. And it is enough to annul it, that it is *lege prohibente*, though it want the express certification of nullity, as Vinnius proves in his *Select Questions*, *lib. 1. cap. 1.*; and the acts made in the year 1641, having been questioned as no rule to judge by, after their abrogation, in the case of the 67th act of that Parliament anent intromission with rents of lands appraised from minors, the LORDS, 18th Feb. 1663, Mackenzie *contra* Ross, No-8. p. 298. found these laws in 1641 were to be the rule of judging and regulating all cases that intervened betwixt their enacting in 1641, and the rescinding in 1661. THE LORDS, considering this nullity was not pleaded to annul the apprising *in toto*, but only to cut off the expiry of its legal, and that it was allowed to subsist as a security for principal, annualrents, and accumulations; therefore they found this defect in the requisition sufficient to take off the legal, and keep it open, and redeemable on payment of the sums therein contained.

Fol. Dic. v. 1. p. 537. Fountainball, v. 2. p. 295.

1707. July 3.

DUNCAN *against* SCRIMGEOUR.

No 14. AN adjudication having proceeded on decrees of constitution against an apparent heir, as lawfully charged to enter heir to his predecessors, for payment of principal sums, annualrents, and penalties contained in his predecessor's heritable bonds, without using previous requisition, in terms of the said bonds, the LORDS restricted the adjudication to a security for principal and annualrents, and refused to sustain it as a security for a fifth part more, or for the termly failzies, although requisition was made after the decree of constitution, and the days thereof expired before executing the summons of adjudication, which narrated the requisition.

Fol. Dic. v. 1. p. 536. Forbes.

. This case is No 4. p. 171. *voce* ADJUDICATION.