

(RANKING OF ADJUDGERS AND APPRISERS.)

the present case. The reservation of all objections *contra executionem* in the adjudication, must have the effect of preventing any objection which can be afterwards removed from hurting the diligence. There is no good reason for distinguishing the present from an objection which affects the amount of the debt. The Court have sustained adjudications led upon grounds much more exceptionable, as upon expired bills, and upon English and York-buildings Company bonds, after the lapse of the long prescription, allowing these objections to be removed by subsequent productions.

THE LORD ORDINARY sustained the objection, in respect "that by the clause of the statute, in virtue of which the respondent (Fleming) claimed to be conjoined in the adjudication, and was conjoined, reserving all objections *contra executionem*, the creditors only who are in readiness, and have their grounds of debt to produce can be effectually conjoined."

On advising a reclaiming petition and answers, it was

Observed on the Bench: An adjudication can proceed only upon a decree of constitution, or a liquid document. The copy and protest show that the bill once existed, but not that it is resting owing. The case may be hard, but this can have no weight in a question among creditors.

THE LORDS unanimously adhered, by two consecutive interlocutors.

Lord Ordinary, *Dreghorn*.
Clerk, *Menzies*.

For the Creditors, *M. Ross*.

Alt. *Maconochie*.

Fol. Dic. v. 3. p. 15. Fac. Col. No 125. p. 281.

Douglas.

1734. November 19. ALEXANDER JACKSON *against* DRUMMOND of Gardrum.

THE *pari passu* preference introduced by the act of Parliament 1661, takes place in adjudications of personal bonds for sums of money, heritable by the clause including executors.

Fol. Dic. v. 1. p. 19.

See the case STEWART *against* STEWART, p. 140. v. 1. of this Dictionary, with respect to the mode of ranking of an heritable, not clothed with infestment. Compare with *No 13. supra, p. 242.*

IN the competition the Dukes of Argyle with M'Neil of Loffet, mentioned p. 209. v. 1. of this Dictionary, several charges against the superior having been given on one day, upon different adjudications, without expressing the time or

No 50.

No 51.
Ranking of
adjudication
of personal
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hour of the day ; THE LORDS found That these different adjudications come in *pari passu* with one another, or such as are prior or within year and day.

Fol. Dic. v. 1. p. 20.

See the case MARSHAL *against* HAMILTON, p. 47. of this Dictionary, where the Lords refused to bring in an adjudication *pari passu* with other adjudications, although it was within year and day of the first adjudication before the Lords ; but was not within year and day, of the first effectual adjudication, on a *cognitio-nis causa* against the apparent heir renouncing, obtained before the Sheriff.

Fol. Dic. v. 1. p. 20.

See the case CREDITORS of Kinminity *against* GORDON of Clunie, p. 129. v. 1. of this Dictionary, where it was found that the adjudger must be ranked for his whole accumulate sum, including the penalty ; reversing the restriction of the penalty till the making out of the scheme of division.

Fol. Dic. v. 3. p. 15.

See Appendix to the Title ADJUDICATIONS.

LEGAL of APPRISINGS and ADJUDICATIONS.

1630. November 11. L. LIMPITLAW *against* AIKENHEAD.

No 1.

The legal reversion of comprisings, expired in seven years from the date of the comprising, not from the time of the allowance, or of the infestment.

IN a pursuit by the L. Limpitlaw, for the mails and duties of a lodging, pertaining to Alexander Aikenhead, comprised by Limpitlaw, wherein Mr James Aikenhead compeared, and defended himself by an anterior comprising, which was expired ; and the pursuer *answering*, That the seven years were not expired, and that yet he had place to pay the money, for which it was comprised ; seeing, albeit there were seven years past, since the date of the comprising, yet that time ought not to be counted to run, nor the prescription to take place, but after the expiring of seven years, after that the comprising was allowed by the Lords, and after safine thereupon ; by the which deeds the comprising began to be made public, and from that time only it should take the beginning of the prescription of the seven years, especially when the question is betwixt two con-creditors, and