

- No 12. libelled in the process of constitution : But allowed the creditor to support his decret by proving the passive titles libelled, though the defender in that decret is now dead. And the creditor having past from any further proof of the passive titles, the Lords reduced the adjudication *in toto*.

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1737. July 22.

SAME PARTIES.

No. 13.

AN objection that the defender's tutors and curators in the adjudication were not charged upon the special charge, that is, that it was not executed against them, was sustained, though after 30 years, to restrict the adjudication to a security for principal annualrents and necessary expenses.

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1737. November 8.

CHALMERS *against* CUNNINGHAM.

No. 14

THE Lords found an infestment of annualrent preferable to all adjudications, whether prior or posterior to it, on which no infestment followed, notwithstanding they were within year and day of the first effectual adjudication.

\* \* \* See the particulars *voce* COMPETITION.

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1737. November 10.

A. *against* B.

No. 15.

THE creditor not obliged to accept of a progress, and cannot be limited to a special adjudication, unless the land be quite unincumbered; and therefore a progress being offered, the answer was sustained, that the defender stood inhibited, though after contracting the pursuer's debt.

STRICHEN, *Reporter*. *Vide* INHIBITION.

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1737. November 17.

CORSAN *against* MAXWELL.

No. 16.

AN adjudger in possession, who had also a disposition from his debtor, which was reduced *ex capite inhibitiones*, was found liable in repetition of the rents only from the date of the interlocutor opening the legal of his adjudication. His intromissions before that period were found not to be imputed in extinction even of personal debts in the adjudger's person other than such as could compete with the pursuer's debts and diligence.

\* \* \* See the particulars *voce* BONA FIDE PAYMENT, *et voce* INHIBITION.