

Ordinary's interlocutor. This being an annualrent effeiring to a principal sum, and redeemable for payment of a principal sum, 27th February, the Lords adhered, and refused a bill without answers.—20th February 1742.

No. 34. 1742, July 20. HUNTER of Lochreny *against* HUNTERS.

AN adjudication led against an heir as specially charged to enter heir, where the special charge was blank in the lands, but the heir, after the adjudication, entered in the lands,—and after 20 years the creditor pursues an expiry of the legal, and produced the letters of special charge. The Lords sustained the objection, and assolizied from the declarator, notwithstanding the heir's subsequent entry, and notwithstanding that it was after 20 years, since the pursuer produced the special charge; and some of us, (Arniston and *Ego*) thought it void and null *in toto*. But there was no occasion in this process to determine that point.—3d July 1741.

AN adjudication on a special charge to enter heir, which remains yet blank in the lands, and which was produced by the creditor, though the adjudication was in 1705, but after the adjudication, the heir charged was entered and infest;—we all agreed the adjudication was null. The only question was, Whether as to the *jus superveniens*? We also agreed that it could not accresce to give the adjudication the benefit of an expired legal, which he sought; but then it was doubted, whether in the question with the heir it should not subsist as a security for what is justly due? But as the process was a declarator of expiry of the legal, and no process of mails and duties, we simply adhered to the Ordinary's interlocutor, finding it void and null, which, however, is contrary to the decision betwixt Colonel Charteris and Sir John Hume.

No. 35. 1742, Dec. 14. KING *against* ———.

AN adjudication *cognitionis causa* before a Sheriff-Court being passed without any abbreviate, a bill of horning was presented and reported by Strichen, and delayed from time to time till this day; and the first question was, Whether the regulations 1695 and 1696 extend to adjudications *cognitionis causa* in inferior Courts, whereof formerly there was no abbreviate? and it seemed clear enough that these regulations only concern the Session. But then it also appeared that there was no authority from our giving horning on these adjudications against superiors, who are not called in the process and often not within the jurisdiction, which the act 1606 could not authorize; and though there was practice for our giving horning on such adjudications having abbreviates, (however there appears no authority even for that) that there was no practice for such horning without abbreviates;—and therefore the Lords refused the horning,—but appointed a committee, Drummore, Arniston, *et Me*, to make an act of sederunt for giving horning upon such adjudications with abbreviates;—and on a reclaiming bill, 14th December, adhered.—2d December 1742.

No. 36. 1743, Feb. 15. MAXWELL *against* MAXWELL.

AN adjudication upon two debts of 500 and 490 merks being quarrelled, for that the bill at the Signet was only for one debt, and a summons never does