

(RANKING OF ADJUDGERS AND APPRISERS.)

inconsistent with apprisings of personal rights; the first apprising in such being always the *first effectual*. It was *answered*, That the preamble of this clause in the act is general; and respects all apprisings, whether of real or personal subjects, viz. *That creditors, at a distance, are prevented by the more timeous diligence of other creditors.* And the clause, mentioning the first effectual apprising is not intended as an adequate description of the first effectual apprising, but as a particular example of what, indeed, is the common case. THE LORDS brought the adjudgers in *pari passu*.

No 13.

*Fol. Dic. v. 1. p. 18.*

1729. February.

SIR JOHN SINCLAIR *against* MRS ELIZABETH GIBSON.

No 14.

A PERSONAL bond, bearing substitutions, and, consequently, heritable *destination*, was adjudged by several creditors. THE LORDS found, That the act, bringing in adjudgers *pari passu*, does not take place in this case; being a subject upon which infestment could not pass; and, therefore, they preferred the first adjudger.

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

1734. June 27.

RELICT of Alexander Falconer, *against* his CREDITORS.

No 15.

ADJUDICATIONS, led against a debtor, who had, in his person, a disposition to lands, without procuratory or precept, brought in *pari passu*.

In this case, the disposition, being affected, by several adjudications, at the instance of creditors coming in *pari passu*, within year and day; one of the adjudgers went on to complete her right to the lands, by adjudging, in implement, against the disponent, whereupon infestment followed; and it was *pleaded* for her, That, though the other adjudgers did come in *pari passu*, with respect to the common debtor's right, sciz. the disposition, without procuratory or precept, that did not hinder her to be preferable in the land itself, which she only had affected by her adjudication in implement. THE LORDS brought in all the adjudications *pari passu*; and found, That the infestment obtained does accrete to the other creditors, upon their paying a proportional part of the expenses.

Mode of ranking when the subject adjudged is held by disposition, without procuratory and precept.

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