possession, may notwithstanding use personal execution by horning, caption, &c. When this was first moved, Arniston, and several others, demurred, who thought that this would depend on the question, Whether apprisers before 1672 could, notwithstanding the possession, use such diligence, and therefore delayed for a memorial, which they got, but did not state the difficulty, and therefore I laid before them such decisions as I found in Durie, which were all, that a compriser in possession could not use personal execution without renouncing. However, the Lords thought the law was now different as to general adjudications, especially since the act 1672 had specially provided for the case of special adjudications, but without repeating the same provision as to general adjudications: The omission seemed to be *ex proposto*,—and therefore they directed me to pass the bill.

No. 28. 1740, Dec. 5. GEDD *against* BAKER.

AN adjudger having obtained charter and sasine, and entered to possession immediately after adjudication, and possessed more than 40 years. The Lords found that the adjudication could not be quarrelled upon nullities, though he had not possessed 40 years after the legal. But they thought he might declare the adjudication satisfied and paid within the legal any time within 40 years after expiring of the legal, though there was no occasion to give an interlocutor on this point. This interlocutor was unanimous except the Marquis of Tweddale, (Arniston absent.) 2*dly*, Found that minority must be discounted from the positive as well as negative prescription, (unanimous.)

No. 29. 1741, Feb. 20. YOUNGER CHILDREN of GUTHRIE, *Supplicants*.

UPON a bill of horning on an adjudication in implement proceeding on a decreet *cognitionis causa*, the question was, Whether horning could go without an abbreviate? I gave my opinion as Ordinary, that it could not, because no horning could proceed on comprisings, without being first registrate, and then by the act 1661 without being allowed instead of being registrate, and the act 1672, and the regulations 1696. But at the party's desire (who insisted, that such adjudications needed no abbreviate,) I reported,—and several Lords doubted whether any adjudger (though not in implement) can be forced to take an abbreviate, since the law does not declare adjudications without allowance or abbreviate void and null, but only that they cannot compete with subsequent adjudications,—though they all agreed that an abbreviate was as necessary here as in other adjudications; and the President seemed to be of that opinion; but upon noticing that this adjudication, with a charge, might perhaps be preferable to a subsequent voluntary right, which might make a great blank in our records, it carried to refuse the horning.—*Renitentibus* Drummore, Arniston, Kilkerran, &c.

No. 30. 1741, July 15. SPREULL *against* SPREULL CRAWFURD.

THE Lords found, that Milton could have no benefit by his own fraud, in taking the disposition from his nephew, which was in effect a conveyance of the reversion of his own adjudication, and that therefore the legal is still open. 2*do*, That the debts acquired by him were in trust for the behoof of his nephew, and that he must communicate the cases, and that this case falls not under the act 1696. As to this I gave no opinion, but wanted