

of that decision, and at a time when it was vulgarly believed that such addition did not vitiate bills ;

*2do*, In this particular case a peculiar answer occurred, arising from the circumstances of the parties, which behoved to remove the objection, viz. that the defender, at the time of granting the bills in question, was Mr Arrot's friend and lawyer, so could not object to his own deed, for these bills behoved to be considered to be the defender's deeds, as much as Mr Arrot's, who was no lawyer, and trusted the defender that he would not give him an informal security for his money.

THE LORDS found, that the defender being, at the date of these bills, ordinary lawyer and trustee to Mr Arrot, was thereby debarred from objecting against the form of the bills.

*Fol. Dic. v. 4. p. 79. C. Home, No 251. p. 405.*

No 27.

1744. June 20.

WALDIE against ANCRUM.

FOUND, that where a debtor in an heritable bond adjudges his own heritable bond upon a debt due to him by his creditor, he can never plead an expired legal to carry the whole debt in the heritable bond, supposed to be greater than the debt adjudged for.

The reason is, that the moment one adjudges a debt due by himself, he is *eo ipso* free of so much of his own debt which he has adjudged, which to him is equal to payment of the debt adjudged for ; and payment which extinguishes, must of course stop the legal.

*Kilkerran, (ADJUDICATION and APPRISING.) No 15. p. 11.*

No 28.

The adjudger of an heritable debt due by himself cannot plead an expired legal.

1745. February 13.

WILSON against PURDIE.

JAMES PURDIE of Hairburnhead had a process raised against him, at the instance of the children of Samuel Purdie, his brother, whose curator he had been, and thereon was inhibited, and a decret was finally pronounced against him for L. 6000 Scots. He afterwards granted an heritable bond, on his lands of Westforth, to James Wilson of Gillies for 400 merks, to which his second son Thomas signed as consenter ; and the inference drawn from this, and what followed by Mr Wilson, is, that he had then come to a resolution to make Thomas Laird of Westforth, and that the 400 merks should be a burden thereon ; but Thomas Purdie, the defender in this cause, denied that any such consequence could be drawn, and took notice, that the bond did not bear to be with his advice and consent ; but only in the testing clause, he being called to be a witness, was designed consenter ; and if his eldest brother had been present, his consent would have been adhibited in the same manner.

No 29.

An acceptor of a gratuitous disposition to an estate cannot use a preferable right purchased by him, to the prejudice of debts charged on the estate, farther than he paid for the right.