heir or assignee." The estate was forfeited and purchased by the York-Buildings Company, and a long lease of it from them is by progress come into the person of Lord Boyd, containing power to enter vassals and singular successors. The disponees of the old vassals, upon the late act of Parliament, charge Lord Boyd to enter them; and he presented a bill of suspension, on this ground, that the chargers were liable to pay a year's rent for the entry; and in answer, the vassals contended that they were only liable for the double of the feu-duty. Replied: That assignee can only mean the first assignee; 2dly, such a clause is not effectual against him a singular successor. Several were of opinion of the first, to which I could hardly agree, but was clear on the second; and we all agreed to pass the bill,—5th July.

25th July.—This case came first before us 5th instant, when we passed Lord Boyd's bill of suspension of the charge, founded on the late act of Parliament for entering these singular successors; and the same question is now again repeated in discussing the suspension on the bill. We found Lord Boyd not bound to enter the chargers without payment of a year's rent. Justice-Clerk was for the interlocutor on both points.

No. 14. 1752, Feb. 5. KINCAID *against* MRS HAMILTON GORDON, &c.

KINCAID held his lands from Cunningham of Boghan, which are now by Cunningham's creditors held of Gabriel Napier feu, as come in place of the Viscount of Kilsyth, who held them of the Crown. Kincaid served heir to his father, and upon the act 20th Geo. II. for taking away ward holding, &c. charged Mrs Hamilton, the apparent-heir of Boghan, to enter him, and took an instrument against him; wherein her answer was, that she did not represent the defunct, and had renounced to be heir; and then he presented a bill of horning against Gabriel Napier, the remote superior, which he opposed; and thereupon two questions arose. 1st, Whether the act extended to the case of apparent-heirs in the superiority? 2dly, If it extended to remote superiors, and if we could supply it? (Lord Elchies's reasoning on the case is subjoined to the text.)

No. 15. 1752, July 22. GRAHAM OF FINTRY *against* KINLOCH.

FINTRY feued a mill to Sir James Kinloch, who assigned the precept of sasine to Alexander his second son, who was thereon infeft, and thereafter attainted of high treason, and the mill surveyed by the Barons of Exchequer, and Fintry on the Clan-act claimed as superior, and produced the feu-contract with Sir James Kinloch, with an extract of Alexander's sasine, but wanted the assignation of the precept by Sir James to him, which we thought necessary to instruct Alexander to have been his vassal in the mill;—and we allowed him to prove the tenor of that assignation, and of the principal sasine; though the President doubted if that was competent; but we would not give an incident diligence for proving it, for we thought a summons and separate process necessary, as is usual in improbations.

No. 16. 1753, Feb. 16. SINCLAIR *against* SINCLAIR of Rattar.

ULBSTER having right by progress to the superiority of Rattar's estate, took a charter from the Crown, and (to multiply votes at elections) conveyed the precept to the different

parts of the land to three several persons, whereupon they were infeft. Sinclair of Rattar, as apparent-heir and in possession, pursued reduction of these infeftments, and declarator that his superior could not split his superiority to his prejudice, whereby he was uncertain by whom to enter his lands. Ulbster objected to his title, that he never was infeft, nor did it appear that he was apparent-heir to the last vassal infeft, whose infeftment produced was no later than 1661. We allowed before answer a proof of his being apparent-heir and in possession, which was this day advised in the summary cause roll. And the Court found it was not in Ulbster's power to split the superiority, agreeably to our judgment 9th July 1741, Sir John Maxwell against M'Millan, (No. 5, *supra.*) This is the judgment, as I am told, for I was in the Outer-House.

*** Note referred to in No. 23, *voce* ADJUDICATION.

Lord Elchies, in his note relative to the case, Home against Creditors of Eyemouth, 29th January 1740, No. 23, *voce* ADJUDICATION, mentions that he had stated the subject there treated of "in another place." The Editor hoped to have discovered the place alluded to, and to have communicated here any information he might thence obtain. In this he has been unsuccessful. No notes appear upon the Session papers, which are in the 11th volume. There was no attempt made to plead, in the abstract, that an adjudger infeft becomes, after expiry of the legal, so absolutely the proprietor, *whether in actual possession or not,* as to be entitled as superior to enter vassals in preference to the former proprietor. It was distinctly proved, that the adjudger here in question had never been in any respect in actual possession,—and it seems to have been on all hands considered to be necessary to ascertain this, in order to come to the conclusion that a purchaser was not bound to regard him although infeft, but might validly receive a charter from the former superior.—This charter was besides supported both by the positive prescription and by homologation.

SUSPENSION.

No. 1. 1735, Jan. 7. BRACO *against* THE DUKE OF GORDON.

THE Lords refused Braco's complaint, but remitted to me to enquire whether the Duke had controverted the quality in the Ordinary's interlocutor refusing Braco's first bill of suspension.

No. 2. 1736, Feb, 27. GRAHAM *against* MRS GRANT.

THE Lords ordained caution to be found *ad valorem.* I thought such a suspension a novelty and ought not to pass at all, were it not for the creditor's consent, but since he consented, I thought the caution should be the same as in loosing of arrestments.