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And as to the double ranking, the difficulty is not solved; for it was not adverted to, that on the dividends being replaced out of the L. 39,000 bills, a new estate would be produced, and an endless series of rankings begun. For this reason probably it is, that no other instance can be produced of a claim of relief for dividends.

THE LORD ORDINARY pronounced this interlocutor: " Finds, That the assignees are not only entitled to be ranked for the sum of L. 39,000, and for L. 12,000, making up together the total balance due to them, and to draw a corresponding dividend accordingly, till by such dividend, and by the produce of the collateral securities in their hands, they shall be fully paid of the above-mentioned total balance; but also, that the said assignees are further entitled to be ranked, and to draw as aforesaid, ay and until they shall be fully paid and relieved of the amount of any dividend that has been or shall be recovered out of the estate of Sandeman and Graham, by the holders of their acceptances for the other sum of L. 58,000."

At first, upon advising a reclaiming petition and answers,

THE COURT adhered to the Lord Ordinary's interlocutor.

On advising, however, a second reclaiming petition and answers, the following judgment was pronounced:

" THE LORDS alter the interlocutor complained of, and find, That the assignees can only be ranked for L. 12,000:" To which judgment, by a very narrow majority, they adhered, after again advising the cause on a reclaiming petition and answers.

Lord Ordinary, *Justice-Clerk.* For the Assignees, *Solicitor-General.* Alt. *Macconochie.*
Clerk, *Home.*

S.

Fol. Dic. v. 4. p. 245. Fac. Col No. 146. p. 291.

S E C T. IV.

Real security remains till the last shilling be paid.

No 23.

1734. February 16. Earls of LOUDON and GLASGOW against Lord Ross.

AN adjudger upon a bankrupt estate having obtained payment of part of his accumulate sum out of the debtor's other effects, in a competition betwixt him and the other adjudgers, who were ranked *pari passu* with him upon the price of a remaining part of the estate, the question occurred, whether he was entitled to draw in proportion to his accumulate sum till he was fully paid up, or only in proportion to the sum that remained due? It was *contended* for him, That his

real security was not diminished, though the sum secured was; that his security remained the same till the last shilling was paid, and that it was his real security which entitled him to draw, not the sum that was secured. THE LORDS accordingly found, That the adjudger, who had recovered the partial payment out of the debtor's separate funds, ought to be ranked for the whole sum in his adjudication *pari passu* with the other adjudgers, in order to recover payment of what remained due after the said partial payment. See APPENDIX.

Fol. Dic. v. 2. p. 355-

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SECT. V.

Right in security is, in general, not broader than the real debt at the time of granting the security.

1699. January 25. JANET INGLIS *against* the Earl of MURRAY.

JANET INGLIS, relict of A. Charters, and the Representatives of John Macmorran, competing for the right of 5000 merks due by the Earl of Murray to umquhile Thomas Inglis, her brother, Janet claimed the same on this ground, that Isobel Macmorran, her mother, being melancholy and fatuous, there was a gift of curatory taken to her brother John Macmorran for managing her affairs, and she being provided to a jointure of 1800 merks, her name was in the life-rent of bonds for 28,300 merks, so there being 1700 merks behind to complete the stock of 30,000 merks, her son Thomas Inglis gave her a bond for paying her L. 68 Scots yearly as the annualrent of the said 1700 merks, to complete her jointure, and for her better security assigned her to as much of the principal sum of 5000 merks due to him by the Earl of Murray as would pay the by-gones of the L. 68 of deficiency, then amounting near to L. 1200 Scots; and there was likewise arrestment used by the curator in my Lord Murray's hands, and a decret to make forthcoming: And Janet having confirmed *executor ad omnia* to her mother, and pursued before the Commissaries of Edinburgh James and Bessie Macmorran's children to Bailie Macmorran the curator, and Dr Nisbet husband to the said Elspeth, the Commissaries found, by the said Thomas's assignation she had right not only to affect the Earl of Murray's sum with L. 1200, as the bygone rests of the annualrent of the 1700 merks due to her mother preceding her decease, but likewise with the annualrent of that sum ever since her death in 1678; and ordained John Macmorran the curator's representative to transmit as much of the Earl of Murray's sum as will extend

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Whether a creditor, in right of his security, can draw more than the sum secured?