No. 25. 1740, Feb. 19. SPREULL *against* SPREULL CRAWFURD.

I OMITTED to mark the former interlocutor on bill and answers betwixt these parties, on 17th instant, where a question occurred far from being plain, viz. What is the proper title for reducing an adjudication against an apparent-heir,—whether a service as heir to the person last infeft in these lands? We all agreed, that so far as the reduction was founded upon alleged trust for the apparent-heir, no other title was necessary or habile, but a service to him; but as to other nullities, the Lords were divided; and I own I doubted pretty much, especially where the adjudication is not upon a renunciation to be heir, and a *cognitionis causa*, but upon a special charge. However, they sustained the pursuer's title,—against which they now reclaim, and the bill is appointed to be answered, 22d January 1740.—19th February, the Lords adhered.

This case, which is marked 22d January, but should have been the 17th, came again before us by reclaiming bill and answers, as the process was a reduction in common form on nullities, intromission, &c. I thought the question came to the general point, whether an apparent-heir, against whom an adjudication is led on a special charge, can reduce or redeem such adjudication or not? for if he can, then the reversion in him will be carried by a general service; or if none can redeem but one infeft in the lands, which is Stair's opinion, p. 400 (417), I was of opinion, that by the several acts of Parliament, particularly in 1540, and the 7th act, Parliament 23, James VI. compared together, the apparent-heir, against whom such adjudication on a special charge proceeds, may redeem, though one against whom an adjudication or a renunciation and decreet *cognitionis causa* is led, cannot redeem; and though Stair, p. 400 (417,) says, that the apparent-heir against whom an adjudication on a special charge proceeds cannot redeem, yet the decision he quotes imports rather the contrary; for in the reasoning, it seemed to be supposed, that by the practice he could redeem, and all the question was, Whether after his death, the next heir being infeft as heir to the person last infeft, might also redeem without serving to the apparent-heir, against whom the adjudication was led? and the Lords found they might.—19th February 1740.

No. 26. 1740, July 16. GORDON *against* SIR GEORGE MAXWELL.

THE Lords found the mistake in the requisition in the date of the wadset, sufficient to restrict the apprising to principal and annualrent. I was of that opinion, but that they should be then accumulated. But it carried otherwise. 2*do*, They found the taking decreet for the ten merks was wrongously apprised for, because there was no obligation to pay it, only it was a burden on the reversion; but that it was likewise usurious, being more annualrent than was due, and this last was found sufficient to annul the apprising *in toto*. But Arniston, though he was for the first interlocutor, yet he was against the last; and 9th January 1741, the last was altered, and the apprising was sustained as a security for the sums truly due.

No. 27. 1740, July 25. ALISON and JEAN MABENS *against* ORMISTON.

ME REFERENTE upon William Seaton Writer to the Signet's suggestion upon a bill of horning, the Lords found, that an adjudger, having a general adjudication, in