

1740. *July 16.*GORDON of Campbleton, *against* Sir GEORGE MAXWELL of Orchardtoun.

APPRISING upon a requisition of a wadset sum, in which requisition there was a mistake as to the date of the wadset, though corrected in the instrument of attendance; yet the Lords found the defect sufficient to restrict the apprising to a security for principal sum and annualrents without accumulations. *2dly*, The annualrents of the wadset sum being ten merks more than the rents of the lands, the contract contained an obligation for payment of those ten merks, wherein the annualrents were expressly calculated at eight per cent.; but before the decret of constitution and apprising the interest of money had been many years at six per cent., and yet the ten merks for all these years were appraised for; and the Lords thought the decreets on that account usurious, and annulled the apprising *in toto*.

No. 26.  
An adjudication annulled on account of usury.

1740. *July 25.*ALISON and JEAN MABENS *against* WILLIAM ORMISTON.

THE apprisers in possession could not use personal diligence by horning, caption, &c. against their debtors without first renouncing their apprising; yet the Lords thought, that the law was now different as to adjudgers having general adjudications since the act 1672, which makes that regulation in the case only of special adjudications; and therefore, on report, past a bill of horning for a debt whereon the adjudication had been led, and whereon the creditor was in possession. (See DICT. No. 18. p. 219.)

No. 27

1740. *December 5.* GEDD *against* BAKER.

ADJUDGER taking charter and sasine, and possessing 40 years from his sasine, though not from the expiry of the legal, his adjudication cannot be quarrelled on nullities; but the Lords thought that it was competent to prove "satisfied and paid within the legal" any time within 40 years after the legal. *2do*, They found, that minority must be deducted out of all prescriptions both positive and negative.

No. 28.