

(DUE by those who uplift Sums bearing Annualrent.)

No 95.

THE LORDS found Mr Gordon liable for the 116 merks, and the annualrent thereof from the time the same was paid to Mr Thomas his father.

*Fol. Dic. v. 1. p. 42. Forbes, p. 465.*

1736. February 18. COLONEL ERSKINE *against* EARL of LAUDERDALE.

No 96.

One creditor having, by consent, uplifted from a judicial factor, rents due to another, found liable in annualrent thereof.

A FACTOR upon a bankrupt estate, having a considerable sum of bygone rents in his hands, bearing interest, the two preferable creditors upon the estate, who had long disputed which of them was to be ranked first in order, apprehensive of the rents perishing, agreed to divide the same in a certain proportion: In consequence of this agreement, application was made to the Court of Session in the name of one, with consent of the other; and he accordingly uplifted the bygone rents out of the factor's hands; and being many years thereafter pursued by the other creditor upon the agreement, was obliged to repeat the pursuer's proportion of the rents, with interest from the time of uplifting.

*Fol. Dic. v. 1. p. 42.*

1762. November 23. DICKSON *against* HAMILTON.

No 97.

A person, who, by deceiving a weak man, had obtained a bond from him, and ranked on his estate for it; when forced to make repetition 44 years afterwards, was found liable in interest only from citation.

HAMILTON, writer to the signet, got a bond for 4000 merks from Baillie of Walfon, a weak foolish man, on account of services he had done, in negotiating a sale of his estate. It came out, that instead of doing him service, he had betrayed him.

Action was brought by Walfon's Representatives, for restitution against Hamilton's Representatives. The Court found the latter liable.

Then the question occurred, Whether annualrent for 44 years was also due? It was found due upon this medium, that Hamilton had taken decret for the sum, and got himself ranked for it, upon the price of the lands of Walfon, which was bearing interest.

This interlocutor was afterwards altered, and interest allowed only from citation.

*Dreghorn, MS.*