

1769. July 12. Competition CREDITORS of AUCHINBRECK.

No 34.

IN the same ranking, a different rule was laid down with regard to double securities upon the same estate or subject. Campbell of Balerno and others, Creditors by heritable bonds upon the estate of Auchinbreck, having also adjudged the said estate for their debts, including arrears of interest, &c. received payments in the course of the ranking, to account of the interest on their heritable bonds. They afterwards insisted to rank, *1mo*, On their heritable bonds; *2do*, Upon their adjudications for the whole sums therein contained, till their accumulations should be fully paid. They *pleaded*, That when an adjudication is habilely led against any subject, that subject is only redeemable from the adjudger on payment of the whole sum for which it was led, with the interest thereof from and after the date of the adjudication. *Answered*, That it would be highly unjust and oppressive to allow the same subject to be attached over and over again, whether in the way of voluntary or legal security for one and the same debt, to the effect of enabling the creditor to rank upon it for his whole debt repeatedly, in prejudice of other creditors. THE LORDS found, That the preferable creditors were entitled to rank upon their adjudications only for the balance, deducting what they had drawn upon their heritable bonds. See No 39. p. 14139.

*Fol. Dic. v. 4. p. 243.*

1781. August 2.

DOUGLAS, HERON and Co. *against* The BANK of ENGLAND, and Others.

IN the ranking of the Creditors of Messrs William and Robert Alexanders, the company of bankers under the firm of Douglas Heron and Co. claimed to be preferred, in virtue of an heritable bond, upon sundry parcels of the bankrupt's landed estate in Scotland. They likewise claimed to be ranked a second time for their whole debts, in virtue of an adjudication, affecting the subjects, covered by the heritable bond.

To this claim the Bank of England, and others, adjudging creditors, opposed the decision 12th July 1769, Ranking of the Creditors of Auchinbreck, No 34. p. 14130, by which it was found, "That the heritable creditors adjudgers, were entitled to be ranked upon the funds *pari passu* with the other adjudgers, only for what remained due of their accumulated sums, after deduction of what they should draw in virtue of their infestments."

No 35.

Creditors cannot be ranked twice for their whole debts, upon the same subject, in consequence of different diligences. See No 39. p. 14139.