

by pointing or arresting the debtors goods and gear; but not personal Execution by harning and Caption, unless he Renounce the Apprising. 7. cemb. 1631 Scarlell contra Peterson. If an Appriser enter to possess, or Continue his Possession after his apprising is Expirod and Freed. able, the Debt where upon it proceeds becomes Extinct and satisfied. Albeit some of the apprirod lands should be Evicted from him and his Apprising prove effectual only in part; if the land then the be Equivallent to the Value of the whole sum Apprirod and he cannot use Diligence against the debtors other estate for payment of such a part thereof as is possessed in proportion to the Land he is Evicted from 15 June 1676 L. Ley contra Forbes Hair lib. 3 tit. 2 § 43.

Sec. 2.

of Adjudication come in place of Apprising. In the year 1672 Apprising was the only ordinary way Diligence whereby all rights of the ground were conveyed in lands; and Adjudication only an Extraordinary remedy in cases where Apprising could not take place, as adjudication by a Lord's Decree upon an Apparent heirs Renunciation, and adjudication in Quimpment. But the Parliament then thinking it absurd to carry away at Random the greatest estates for the smallest debts by apprisings led before such Ignorant persons as Messengers commonly they did ordain, that Creditors for Liquid and personal debts for the future should, in stead of apprising their debtors estates get the same adjudged to them by Decree of the Lords of Session Act 19 Par. 2 sess. 3 Ch. 2.

In order thereto a Summons of adjudication is raised, containing a Warrant to ~~the~~ the Debtor to produce before the Lord the whole Writs and Evidents of his lands and others pertaining to him heritably, and in case a sufficient free progress of right to the said lands be produced, to hear and see such a part of at the pursuers Election, adjudged and Decreed to belong to the pursuer or his heirs and assigns heritably, as will satisfy and pay them the Principal Sum and Annual Rents due the day of the adjudication, and a fifth part more in place of the Penalty Extending in whole to the sum of 60. by and attour to Composition to the superior and Charges of the Enforcement deemed within 5 years; and to hear and see himself Decreed to Deliver to the said Pursuer the said Writs and Evidents or Judicial transsumpts thereof, and to Retify

adjudication and Renounce the possession. But in case No sufficient free progress of right be produced, and the debtor Renounce not all right to the Lands to be adjudged and satisfy the adjudication, then and in that case to hear and see the whole Lands and others afore said adjudged to pertain to the pursuer and his fore said heritably for payment of the principal sum by gone Annual Rents and Penalty Extending in whole to the sum of 60. deemed in 10 years.

Upon a Summons of adjudication according to Circumstances either a Special or General Decree of Adjudication may be pronounced.

A Special adjudication is when the Debtor appearing on the Summons, takes a day to produce a free progress of rights to a part of his Estate equal in Value to the principal sum and Annual Rents Resting under a fifth part more to satisfy the Creditor he is forced to take care in the doing, Contrary to the Rule of Law, that he produce the whole being required, besides the Composition due to the superior and the expense of the process and Impfelement, without any satisfaction or the penalty in the debtors bond or other Bonds, if such is the ground of the Process; and to Deliver the same or Transsumpts thereof to the Creditor Pursuer, and to Renounce the possession of the said Proportion of the Estate in his power. Upon which an Act is Extracted; and if at failing thereof, before the pointing of the term taken, a sufficient free progress be produced, the value of the subject to be adjudged, must be proved according to what it paid for five years by gone, and what they pay; and the rates and prices of the like in the country where it lies be directed; Respect being had to the tenor of the holding and profits due to the superior. In which case the Debtor to the Desire will be allowed a joint proof with the Creditor. The Lords must also Determine what warrant due of it the Debtor shall give to the Creditor. If the subject to be adjudged is affected with life rents or other Burdens, so as the Creditor cannot During the Legal get payment of his whole annual rent out of the Rents yearly, that is taken notice of, and the Annual rent Corresponding to the Inlake of the Rent will be added to the principal sum at the Redemption of the Adjudication. The Lords are Impowered to put upon such lands Effiring to what is owing to the Creditor, and a fifth part more as may be sufficient for him and left full to the debtor Hair lib. 4 tit. 51 § 12. The Lord