No 10.
liferent, and his children in fee. There was a *pluris petitio* of a ſmall ſum of annualrent. The appriſing found null, as to the liferent; but valid, as to the fee.

pounds of annualrents appriſed for, had been paid before; 2*do*, Annualrents are accumulated at 8 *per cent.* after they had been lowered to 6 *per cent.*

Anſwered: 1*mo*, The wrong caſting up and accumulating of the annualrent, was an error *in facto*, falling under the clauſe, *ſalvo juſto calculo*; 2*do*, The miſtake was only chargeable upon the father, who led the appriſing; and ſo could only be a ground to annul the ſame, *quoad* his liferent, but prejudice to the childrens fee.

THE LORDS found the appriſing ſimply null, *quoad* the father's liferent; and would not ſo much as ſuſtain it, for a ſecurity, of the principal ſum and annualrents, without accumulation; but found it to ſubſiſt entire, as to the fee belonging to the children; yet they declared, that if the children obtrude the appriſing, as expired, they would conſider, if ſuch a probable objection of nullity, ſhould not purge the negligence, in not uſing an order within the legal.

Fol. Dic. v. 1. *p.* 8. *Harcarſe*, (COMPRISING.) *No* 290. *p.* 68.

1685. *February.* LADY HISLESIDE *againſt* MATHEW BAILLIE.

No 11.
An appriſing led by an aſſignee, reſtricted, on account of payments made to the cedent.

FOUND, That an appriſing, led by an aſſignee, for a ſum, whereof the cedent had recovered partial payment, ſhould be reſtricted to the principal ſum, current annualrents, and neceſſary expence, without accumulation of annualrents and penalties.

Fol. Dic. v. 1. *p.* 7. *Harcarſe*, (COMPRISING.) *No* 312. *p.* 76.

1685. *March.* MARGARET CRAWFORD *againſt* OLIPHANT of Condy.

No 12.
A widow, who had right to the fee of a ſum, leads an appriſing, including ſome annualrents, which were *in bonus* of her deceaſed huſband. This occaſioned the appriſing, to be found incapable of expiring. She had not deducted ſome partial payments, made to an aſſignee; on this account, the appriſing reſtricted to a ſecurity.

AN appriſing, led at the inſtance of a wife, who had right to the fee of the ſum appriſed for, being quarrelled as null, becauſe ſhe had appriſed for the bygone annualrents, which were *in bonus* of her deceaſed huſband; and 2*do*, She having formerly aſſigned the debt, before ſhe was retroceſſed, the aſſignee had uplifted ſome part of the ſum.

Anſwered: 1*mo*, The huſband's repreſentatives, claim no intereſt in the bygone annualrents; and the wife would fall to a greater ſhare by the huſband's teſtament; 2*do*, The creditor in the appriſing, is willing to reſtrict to the ſum uplifted.

THE LORDS found it relevant, to make the appriſing current, but not to prejudge accumulations, &c.: That the annualrents appriſed for, were *in bonus defuncti*; but found the ſecond allegeance, viz. That the aſſignee had uplifted a part of the annualrent appriſed for, before the compriſer was retroceſſed, relevant to take off the accumulations, and to make the appriſing ſubſiſt, only as a ſecurity, for principal ſum, current annualrents, and neceſſary expences.

Harcarſe, (COMPRISING.) *No* 311. *p.* 76.