

No. 19. entire, there was nothing in them. For as to the first, the method used in the present case was no other than what is done every day. Suppose six heirs-portioners served, and obtaining a precept from the Chancery, or a precept of *clare constat*, one attorney receiving the symbols for the whole six, will vest in each of them their interest in the estate: Or where a debtor disposes his estate to his creditors in general, equally and proportionally, one attorney for the whole receiving the symbols in their behalf, will vest the infestment in security in them all equally and proportionally; nor in such cases would it answer the intention, were it done otherwise, as the creditor to whom the infestment was first given would have the prior right.

And that the creditors knew not of the infestments is nothing. For however, by the Roman law, a deed *inter vivos* neither created obligation, nor transferred property, without the knowledge and acceptance of the party, yet with us the rule is the other way; for with us *acquiritur ignoranti*, whose acceptance is presumed from the nature of the grant, if beneficial to him, and that presumption is not to be elided by a proof of his ignorance, it can only be defeated by a repudiation.

Had the Lords thought that there was any thing in the objections, they would not have been ready to cut them down on *res judicata*; for so much was said when they repelled the objection to the form of the sasine, which it had been of dangerous consequence to sustain; and for the other, it was absolutely void of all foundation.

Fol. Dic. v. 4. p. 263, Kilkerran, (SASINE) No. 7. p. 505.

SECT. IV.

Clause, VIDI SCIVI ET AUDIVI.—Clause, ACTA ERANT HÆC.

1612 December 22. PRIMROSE against DURY.

No. 20.

IN an action betwixt James Primrose and Dury, the Lords found a sasine null, because it wanted these words in the subscription, "*quia novi, vidi, scivi, et audivi.*"

Fol. Dic. v. 2. p. 363. Kerse MS. p. 77.

No. 21.

1630. July 6. LORD HERMISTON against BUTLER.

IN a removing from the lands of Blanse and tower thereof, a sasine bearing tradition of earth and stone, as use is, of the lands and tower, but in the words of