

virtue of his said title, which was found null ; yet the LORDS allowed him compensation upon the debt due to him by the defunct.

No 68.

Fol. Dic. v. 1. p. 162.

* * * See The particulars, No 4. p. 2546.

S E C T. VIII.

Effect Relative to Arresters.

1678. July 19. WARROCK M'LURE against BROWN.

THE LORDS, in a case between Warrock M'Lure and Brown, found an execution of arrestment, made by an officer of the town of Edinburgh, null, because it wanted witnesses ; albeit it was *alleged*, That the constant custom of the town of Edinburgh was to take them without witnesses or warrant from the Magistrates ; which the LORDS would not regard, as a mere *corruptela*. As for citations to processes, or in warnings to remove, it may be doubted if the Lords would also find them null if they want witnesses, since they get but two pence to execute them, and men will not be at the pains to seek witnesses to go along with them for so small a hire. See EXECUTION.

THE LORDS refused compensation, because the assignation to the debt was taken after the arrestment laid on in his hands, and so tended to gratify, &c. and prejudice creditors' lawful diligence.

Fol. Dic. v. 1. p. 163. Fountainball, v. 1. p. 10. & MS.

No 69.
The Lords refused compensation, because the proponent had taken assignation to the debt, after arrestment was laid on in his hands.

1679. December 24. CREDITORS OF GORDON against CAPTAIN BINNY.

[ARRESTMENT being laid on affecting *bear* purchased by the arrestee and common debtor, retention was sustained against the arrester, until the arrestee should be relieved of the price of the common debtor's half.]

No 70.

THE LORDS allowed Binny retention of Gordon's half, ay till he were relieved of the price of it, notwithstanding the creditors of Gordon had arrested it.

Fol. Dic. v. 1. p. 163. Fountainball, MS.