

No. 4.

1736. January 17. BAILLIE against BURTON and Others.

ARRESTMENT used on Whitsunday, betwixt twelve and one afternoon, found to affect only the Whitsunday rent and proceedings, because the messenger might easily mistake a few minutes; but the Lords thought, that if it had been used some hours after in the afternoon, it would have affected the Martinmas half-year's rent, as then current.

1736. February 24.

CREDITORS of OGILVIE, *Competing*, viz. GEORGE BALFOUR and PHINHAVEN.

No. 5.
Arrestment on a
decree preferred
to one on a de-
pendance.

ARRESTMENT on a decret preferred to a prior arrestment on a dependance, and that too, notwithstanding apparent collusion in the managers of the process in favours of the creditor by decret; in respect, the process of forthcoming at his instance was called and given out the same day with the other creditor's process of constitution; and so, if here had been no collusion, but equal diligence in both, he must have got his decret of forthcoming the same day the other got his decret of constitution, and so there could be no competition, because there can be none upon arrestment, which is *species executionis*, till there be an extracted decret.

No. 6.

1736 December 7. CREDITORS of MENIE of Bloomfield.

ARRESTMENT, notwithstanding thereof, compensation that was liquid before arrestment, is proveable by the common debtor's oath. *Vide inter eosdem, voce OATH. Vide Biggar against Pringle, 7th November 1740, No. 15, infra.*

No. 7.

1737. December 2. FORBES against ROSS.

THE Lords thought that arrestment would not hinder compensation upon a debt not liquid at the date of the arrestment, but liquidated during the process of forthcoming; but did not decide it.