

ARRESTMENT.

695

followed, is as liable a ground for a decret of forthcoming as any other liquid debt.

No 23.

The LORDS preferred the first arretter.

For Brodie, *Pat. Grant.*

Att: *Jn. Sinclair.*

Clerk, *Dalrymple.*

Fol. Dic. v. 3. p. 39. Edgar; p. 54.

1743. December 14.

LORD HOLYROODHOUSE and SIR ROBERT STEWART of Tillicultry, competing.

SIR ROBERT STEWART, as creditor to Alexander Pitcairn, having arretted upon a bond of relief, conceived in the following terms: 'That the said Pitcairn should relieve, harmless and skaithless keep, the said Sir Robert, from all payment of the sum; and, for that effect, he and his forefairs should be bound and obliged, either to pay the said principal sum to the creditor against Whitsunday 1738, and retire from him the said bond, &c. or otherwise to pay the said sum to Sir Robert against the said term, with a penalty in case of failzie, to the effect Sir Robert might pay the sum and relieve himself thereof.' And Lord Holyroodhouse having, as a creditor to Pitcairn, thereafter arretted upon a bond of borrowed money, Sir Robert was preferred upon his prior arretment, in respect of the clause in the bond of relief, obliging the debtor to pay to Sir Robert the cautioner, at a term certain, Sir Robert finding caution to apply the money in terms of the bond of relief.

No 24.

Arretment found competent upon a bond of relief.

Fol. Dic. v. 3. p. 39. Kilkerran, (ARRESTMENT.) No 12. p. 42.

What Subjects Arreftable.

1502. March 9. ROBERT FRANCIS N. against EARL of MONTGOMERIE.

CORNIS growand upon ony man's landis may on nowayis be arreffit on the ground for ony annuelrent auchtand furth of the famin landis be ony man.

Balfour, (ARRESTMENT.) p. 537.

No 25.

Corns growing could not be arreffed for annualrent due out of other lands than those on which they grew.

1615. December 4. MOWATT against CREDITORS of RICHARDSON.

In an action of quadruple pointing, pursued by Alexander Mowatt against the creditors of John Richardson, the LORDS found, that could not make arreffment, because the time of making thereof his bond was heritable, and fasine was given to him of an annualrent for his sum. And albeit, there was a provision of the bond that it should be lawful to charge for the principal without registra-

No 26.

Arreffment found incompetent, while a bond remained heritable, before a charge was given.