ARBITRIUM BONI VIRI.

No. 1. 1734, Feb. 19. AGNES CORSAN, &c. *against* MAXWELL, &c.

THE Lords found they had no arbitriment in place of the arbiters.

No. 2. 1739, Dec. 21. CAPTAIN CAMPBELL *against* CAMPBELL, &c.

FIND that a provision in a contract of marriage, in favours of bairns of a marriage, is not fulfilled by giving the whole to one. *2dly*, That the father has a natural power of division. *3dly*, That the father may lay out his money on a land estate, and give it to his eldest son, and burden it with provisions in money to the other children. *4thly*, That he had power to delegate that faculty to other friends to be executed after his death.—*Remitentibus* Arniston, Dun, Haining, and Tweddale. January 5th, The Lords adhered, and refused a bill without answers.—15th December 1738.

In this case, mentioned *supra*, 15th December 1738, The Lords found the disposition to the eldest son void *in toto*, and that we could not sustain and burden it with rational provisions, since the referees have declined to determine these provisions. It carried six to five, besides the President, who was on the side of the majority.—*Remitentibus* Royston, (who was Reporter) Drummore, Strichen, Dun, and Arniston.

ARRESTMENT.

No. 1. 1735, Jan. 16. THOMAS GRANT *against* JEAN WATT.

THE Lords found, though Peacock's assignation was not intimated yet the subject was arrestable, and the arrestment, if formal, would be preferred to any subsequent translation by Peacock;—but the Lords sustained the objection to the arrestment, that the citation in the process was null, and so no dependance. *3tio*, Upon the supposition that the arrestment had been valid, they repelled the objection to Grant's decreet of constitution, that there was no other proof than holding Peacock as confest.

No. 2. 1735, June 10. ORR and SIBBALD *against* HARVIE.

THE Lords were much difficulted and divided, and inclined much to a hearing in presence, but the parties were poor,—and upon the vote, it carried six to five to prefer Harvie, the last arrester, in the Receiver-General's hands, when the price of the lands was then in his hands to the prior arrestment in the Court of Exchequer, and in the Receiver's hands before he had got the price:—But by six to four they preferred Orr,