

Another point having fallen to be determined, viz. Whether Munzie was factor for the Colonel only, or both for him and the officers? As to this, it was excepted for the defender, That he opposed his factory, in the terms whereof he is only liable, which is only from the Colonel, and to whom alone he is declared accountable; and, by the forefaid instructions by King William, the factor is only to issue out the money conform to his Majesty's directions; so that where no such directions were, it behoved to be by the Colonel, who had the only power to receive, and was accountable to his Majesty for the money of his regiment. And, though other officers also contributed for the agent's pay, yet such an office was absolutely necessary for management of the regiment's affairs.

Replied for the pursuer, That Munzie's discharge from the Lieutenant-Colonel was opposed, which bears *in terminis*, that he hath made full and complete payment of what arrears he had in his hands, notwithstanding of arrestments laid in his hands by the pursuers. *2do*, Though, out of respect to Colonels, they have the nomination of the factor, yet still, by the nature of the trust, he was factor also for the regiment, and liable to count to every officer for his pay, as well as to the Colonel for his. *3tio*, The defender owned this by clearing with the several officers, without noticing the Colonel, or receiving his warrant to pay any of them. *4to*, There is a decision of the case *in terminis*, 20th February 1712,* James Napier *contra* George Grant, paymaster of Grant's regiment; where the whole above defences were proponed and repelled.

THE LORDS found, That the defender was factor for the behoof of the officers the time of the arrestment, and therefore that their money was then arrestable in his hands.

Act. Boswell.

Alt. Se.

Clerk, Mackenzie.

Bruce, Nos 44. 45. p. 57.

1729. December. JAMESON *against* LECKIE.

MATHEW STEWART having some bills payable to himself, signed blank indorsations, and gave them to Leckie of Arnmore, to be delivered to some of his creditors; before delivery arrestment was used in Leckie's hands, and a forthcoming insisted in.—THE LORDS found, That exhibition, not arrestment, was the *habile* diligence to affect bills thus deposited, and therefore that Leckie had warrantably given up the bills according to his commission, notwithstanding the arrestment.

Fol. Dic. v. I. p. 56.

No 46.

Bills deposited, blank indorsed, cannot be arrested in the hands of the depository.

1736. February 12. HALE, Minister of Linton, *against* HIS CREDITORS.

OF this date, I find it marked in the diary, That, on report of Lord Coupar, the LORDS found a minister's stipend arrestable.

*C. Home, No 12. p. 33.*No 47.
Minister's stipend arrestable.

* Examine General List of Names.