

No. 7. 1737, Dec. 2. FORBES *against* ROSS.

A QUESTION occurred, If an arrestment is used of a liquid debt, and during the forthcoming, the defender, in whose hands it was used, having taken a decret against his creditor, (the principal debtor in the forthcoming) liquidating a debt due to him before the arrestment, but not liquid at the date of the arrestment, the question was, Whether that debt could compensate the debt arrested, though it was not then liquid?—and for certain the compensation cannot operate farther back than the liquidation, before which the first debt was affected by the arrestment.—The Lords were of opinion generally, (but had no occasion to give any interlocutor upon it) that the arrestment did not hinder the compensation; but I own I am not clear. It is plain an assignation intimated at the date of this arrestment, would have hindered any subsequent compensation.

No. 8. 1738, July 4. LOCHWOOD *against* WILSON.

THE Lords were somewhat divided in their opinions about these arrestments.—Arniston thought the debt not at all arrestable, because secured by adjudication; which was indeed my own opinion; and though I preferred Wilson, yet that was because I thought Lochwood's arrestment inept, and then there was none to compete with Wilson, for Sir James Campbell, who alone had interest, did not object.—But the President and others thought, since the money was consigned, it might be arrested, and therefore upon supposition of its being arrestable, they proceeded to determine the preference;—and it carried to prefer Lochwood's, almost unanimously;—but then they were divided in their reason of preference. The President, Royston, Milton, Drummore, Justice-Clerk, and Dun, thought his arrestment preferable to Wilson's, merely because Lochwood's was in the Clerk's hands, which they thought preferable to an arrestment in Kirnan's hands, though it had been prior. The rest thought, that Kirnan and the Clerks were to be considered as the same person, and the arrestment first in date was preferable in whose-soever hands laid. To reconcile them, I proposed to mention in the interlocutor the date of the arrestments; but the President, &c. were for laying the preference on its being in the Clerks' hands; and therefore it was put to the vote, whether the interlocutor should mention the dates of the arrestments; and it carried to mention them seven to six. Minto being absent.

No. 9. 1738, Dec. 21. EARL OF ABERDEEN *against* CREDITORS OF SCOTT.

AFTER a full hearing, the Lords find that an arrestment does not fall by the death of the person in whose hands it is laid, but may be made effectual by a forthcoming against his heir.

No. 10. 1739, Jan. 10. CREDITORS OF MENZIES of Lethiem, *Competing*.

THE Lords found that intimation to the treasurer, and successors in office, or arrestments in his hands, is a habile diligence to affect the debt;—and what moved us was, that by the constitution of this hospital, the treasurer is the proper officer for granting the bond and binding the society.