No. 17. 1741, July 22. WHITE *against* MAXWELL.

THE Lords found, that an arrestment being laid on upon a horning, on a registrate decreet-arbitral, the decreet-arbitral being suspended, the arrestment may be loosed upon caution, and granted a warrant accordingly.

No. 19. 1742, June 22. CREDITORS of HARDIE, *Competing*.

THE Lords repelled the criticism upon Carmichael's precept of arrestment, which was founded on the way of pointing the precept, which itself was not pointed. 2*dly*, Found that arrestment in the Treasurer of the Bank's hands was habile to affect any debt then due by the Bank to Hardie, in virtue of the assignation to them. 3*tio*, Found that Carmichael's arrestment did not fall by Hardie the common debtor's death. But found, 4*to*, That Mosman, his relict, having the first complete diligence by confirmation as executor-creditor before any decreet of forthcoming, therefore the relict ought to be preferred agreeably to the reasoning in Harcarse, (DICT. No. 36. p. 2791,) and agreeably to the law where a poinding happens after arrestment before forthcoming. But we did not determine the other point, whether there was any debt due by the Bank to Hardie in 1732 that could be affected by arrestment, wherein we seemed not to agree. The President and I seemed to think the arrestment habile to affect the conditional obligation on the Bank to accept, for there appeared to be no other form of diligence to affect it.

No. 20. 1742, Nov. 31. RAE *against* NIELSON.

THE Lords unanimously adhered to the Ordinary's interlocutor, finding that the interest in the copartnery was affectable by the arrestment in the other partner's hands, and that whether the partner's effects were at home or abroad.

No. 21. 1742, Dec. 9. CREDITORS of WEDDERBURN *against* M'KENZIE.

WE all agreed that Sir Alexander Wedderburn's interest on the estates, for which he was ranked on the estate of Innerichty, could not be affected by arrestment;—but we remitted the whole to the Ordinary to hear them on the other points.

No. 22. 1744, Feb. 28. GABRIEL NAPIER *against* LORD ELPHINGSTON.

WE had no difficulty that Lord Elphingston was not bound to give an oath of calumny; but the great question was as to that part of the interlocutor burdening Mr Napier with producing the Company's books, though he was arresting as a creditor; and it did not appear to us that he had any connection with the Company; but an observation of the President's satisfied me, that by the quality of the contract, Lord Elphingston was to give notice to the Company, therefore the books are the most proper proof; and the same must hold where the question is, whether the defender gave notice to the common debtor of any matter as of dishonouring a bill? and the President instanced also merchants' books and accounts for proving debts due to them paid.