

twixt arresters and purchaser in the way of commerce, that the arresters are liable to the same objections with their debtors, and the changing the bills of lading did not transfer the property, and it carried to prefer Christie and Company. It was so expressed, because Fairholms had raised a multiplepinding. *Renit.* Kilkerran *et me*, who agreed that it was a fraud in Anderson, but that the property was transferred by sale and delivery, and though that sale might be reduced against Anderson and even against the arrestment while that was all the right that was in them, yet they having acquired the property by the new bill of lading and sold it again, so that nobody knows now who has the property, or if the tobacco is not consumed, that Anderson's fraud could not affect them who were not partakers of it; and Kilkerran observed, that their right by having the tobacco transferred to them by the new bill of lading could not be the worse for their having had an anterior arrestment. 17th December, Refused a bill without answers and adhered.

No. 21. 1749, Feb. 22. AGNES STEWART *against* MRS C. HERON.

THE Lords refused a petition, and adhered to their interlocutor pronounced the 9th in favours of the widow of the last Captain Stewart of Phisgill for her jointure of L.50 sterling, notwithstanding her husband's own right was reduced on old John Stewart's contract of marriage in 1668.

No. 22. 1749, Nov. 10. HENRY ELLIOT *against* WILLIAM ELLIOT.

IN a reduction on the act 1621 of a disposition in 1692 which had since become the title of several purchasers, upon which long possession had followed, some of them possessed more than 40 years upon infestment, others had possessed as long but had not so early completed their titles, but the negative prescription was interrupted as to the half of the debt by the minority of one of the executors or one of the two assignees of the creditor. Both the debtors pleaded the negative prescription of this reduction, and one of them pleaded the positive prescription. The Justice-Clerk found the half of the debt lost by prescription, and sustained action as to the other, and repelled the defence of the negative prescription pleaded for one of the defenders Sir James Stuart, but sustained the defence on the positive prescription for William Elliot; and on advising a reclaiming bill and answers, we seeming to be of different opinions appointed a hearing in presence, which was well argued, particularly by Lord Advocate against the interlocutor. (*Vide* my notes on the petition*) and Lord Advocate noticed most of the topics;—and on the hearing the Court observing that the purpose of this process was to oblige a third or fourth purchaser at the distance of 57 years to prove the onerous cause of the disposition to his remote author 1692, they appointed them to be heard on that point, and on the hearing unanimously found the defender not bound to astruct the onerous cause of that disposition.

No. 23. 1751, July 16. CASE FOR HERDS.

IN the complaint of forgery the Lord Advocate against John and David Herd for forging *inter alia* the acceptance to a bill of two persons of the name of Officer, after

* See Note of No. 33, *voce* PRESCRIPTION.