

COALSTON. It would have been a gross breach of duty, had the messenger not executed both arrestments at the same time, while he was possessed of both diligences.

On the 28th January 1774, "The Lords preferred the arresters *pari passu*;" adhering to Lord Coalston's interlocutor.

Act. R. Blair. *Alt.* D. Armstrong.

1774. February 4. JOHN REYNOLDS of London, Merchant, *against* JAMES SYME and JOHN WEMYSS.

BILL OF EXCHANGE.

A bill drawn from Scotland upon England, is accounted a foreign bill, as to the time limited for notification of its dishonour.

[*Faculty Collection, VI. 280; Dict. 1,598.*]

HAILES. No one values the Union more than I do. The best way to preserve that Union inviolate, is, to take care to preserve the distinction between the covenants and laws of the two parts of the United Kingdom. A bill drawn upon a merchant at London, payable at London to a merchant at London, is a foreign bill with respect to Scotland; just as a bill drawn upon a merchant at Edinburgh, payable at Edinburgh, to a merchant at Edinburgh, is a foreign bill with respect to England. The English authorities for this are express. The English would not consider the bill in the latter case as *inland*: why should the Scots in the former case? As to the notification on the fifth post-day, the allowing three posts does not mean either three days or six days, but only so many opportunities of notification. When opportunities are more rare, a longer space will be allowed. When more frequent, a shorter. The great purpose of multiplying the post-days was, that intelligence, especially of this kind, might be more expeditiously conveyed from one part of the kingdom to another. *Here* the argument is, that intelligence must be understood to be no more expeditious now with *five* posts in the week, than formerly with *three*.

MONBODDO. I imagined that, before the late Act of Parliament, even inland bills, if dishonoured, were to be intimated within three posts. I think that *three* posts mean *three* opportunities.

COALSTON. In questions that strike so deep as to merchants, in a matter of pure mercantile law, I would have wished to know whether the alteration of the posts had made any difference in practice.

ALVA. If we deviate from the rule of three posts we render every thing dubious.

AUCHINLECK. The public posts are known to every merchant. They have been established for many years. The defenders have not availed themselves

of the opportunity of notifying the dishonour which the Postmaster-General afforded them.

PITFOUR. Bills between England and Scotland ought not to be considered as *foreign* bills. For goods coming from England to Scotland have been found not to be *foreign* goods.

[The point was of his own starting. *To render the union more complete*, he could not bring one judge to incline to his opinion.]

On the 4th February 1774, "in respect that it is not denied that the practice is to intimate the dishonour of bills of this nature within *three* posts, the Lords found no recourse due."

Act. W. Nairne. Alt. G. Wallace.

Reporter, Pitfour.

1774. February 9. JEAN GRAHAM and Her HUSBAND *against* MR JAMES BAIN.

CONDITION.

Import of a clause in a settlement by a grandfather, that, in the event of his grandchildren marrying without first having advised with his trustees, and obtained the consent of the majority of them, regularly entered in the sederunt book appointed to be kept by them, and duly signed; the grandchildren so marrying shall forfeit their provision under that settlement.

[*Fac. Coll. VI. 282; Dictionary, 2,979.*]

COALSTON. Here the question is between the words and the intendment of the testator.

GARDENSTON. The young people knew nothing of the proviso. The consent of the grandmother was granted; she was the trustee most interested. Mr Kincaid, another trustee, gave his consent, because he thought the intended husband a deserving man. The other trustees were not consulted, because Mr Kincaid did not recollect the clause in the deed, and consequently made no mention of it to the parties.

HAILES. I doubt how far a man can lawfully throw in such a proviso, leaving a succession of strangers to determine as to the fitness of matches offered to his descendants. According to this rule Mr Bayne, and his session, may have the presentation to all the young women of his flock.

On the 9th February 1774, "the Lords found the provision due;" adhering to Lord Gardenston's interlocutor, and refusing a petition without answers.

For the Petitioners, Charles Hay.