

- No 37. necessary for ranking these creditors, and found no present necessity to determine, whether the other personal creditors were preferable to the tenants or not; but reserved that question to be determined in the ranking, whether the personal creditors or tenants ought to be preferred next to the said arresters and real tenants.'

Fol. Dic. v. 1. p. 314. Dalrymple, No 157. p. 216.

SECT. V.

Quinquennial Possession.

1611. February 26. A. against B.

- No 38. A REPLY found relevant upon the act of Parliament 1584. anent five years possession, notwithstanding it was alleged that within the five years the Lord Maxwell's right of the lands of Middlebie was reduced.

Fol. Dic. v. 1. p. 315. Kerse, MS. fol. 125.

1623. July 10. LO. NITHSDALE against WESTRAW.

- No 39. THE LORDS found the act of possession by the space of five years not to militate in favour of the heir of the forfault person, bruiking by disposition of the donatar, except the heir will make faith that he has just cause to affirm that the lands were his heritage, and that he is prejudged by the want of his heritage, and evidents abstracted from him.

They found that the possession of five years shall be proven by any witnesses of the country.

Fol. Dic. v. 1. p. 315. Kerse, MS. fol. 125.

* * Haddington reports the same case :

JAMES MAXWELL, groom of his Majesty's bed-chamber, infest heritably by his Majesty in the lands of Glendinning, fallen in his hands by forfeiture of John Lord Maxwell, and by resignation of Robert Earl of Somerset, and made assignee by the said infestment to the warning and action of removing frae the said lands, and constitute assignee be Robert Earl of Nithsdale, who was