

said James Reith, That the decret did bear the sum not to be payable till there were delivered, a sufficient letter of flains and remission for the mutilation; but the letters of flains now produced is not sufficient, because it did bear only the remission of an accidental mutilation, and this mutilation being of purpose. *2do*, It was only subscribed by Wolmet's heir, and not by his wife and their children.—It was *answered* for the chargers, That there was no necessity of a letter of flains for mutilation, but the remission alone was sufficient. *2do*, This sum was granted for asyhtment to unquihlé Wolmet himself in his lifetime, and the decret mentioned a letter of flains grant by him. *3tio*, Any interest his wife or bairns could have, was only for asyhtment of their damage, which could be none; seeing Wolmet was a landed gentleman, and did not entertain his family by his handy work.—THE LORDS repelled the reason of suspension; in respect of the answer on the decret and letters of flains produced, which they found sufficient.—It was also *alleged* by the said Jean Douglas, That she ought to be preferred to the said John Boyd, because she had arrested the sum long before his assignation.—It is *answered* for Boyd, The arrestment was upon a dependence and loosed; and there is yet no decret upon the dependence.—It is *answered* for Douglas, That the loosing of the arrestment would have freed Niddie, if he had actually paid the sum; but it being yet in his hand, it ought to prefer her as creditor, doing first diligence; especially, seeing Wolmet, the time of the assignation, was rebel and bankrupt.—THE LORDS preferred the assignee, in respect there was no decret extracted upon the dependence; reserving to the arrester, after sentence, to reduce upon the prior diligence as accords, &c.

Fol. Dic. v. 1. p. 59. Stair, v. 1. p. 50.

1661. July 16. COLLEGE OF ST ANDREW'S, Supplicant.

THE College of St Andrew's supplicate, That in respect their hail rents were arrested, at the instance of Doctor Gleig, and thereby they were not able to entertain their table and burfers; craved the arrestment to be loosed, without caution, in respect they were an incorporation, for whom no body would be caution.

THE LORDS, after debating the case amongst themselves, whether arrestment could be loosed without caution, or upon juratory caution, thought it could not; but in this case, they allowed the same to be loosed, the Masters of the Colleges giving a bond, to bind themselves and their heirs personally, for what should be uplifted by any of them, whereby every person stood caution for his own intromission for the University, they not being otherways bound *personaliter* ut only *secundum officium*.

Fol. Dic. v. 1. p. 59. Stair, v. 1. p. 52.

No 127.
preferred to the arrester, only because no decret was extracted on the dependence. If there had, the arrester would have been preferred, notwithstanding the loosing, the sum remaining unpaid.

No 128.
The rents due to an incorporation being arrested; caution by the members themselves personally, was received for loosing arrestment.