

S E C T. XV.

Annualrenters ;—Adjudgers ;—Inhibitors ;—Assignees, &c.

1665. November II.

TELFER *against* JAMIESON.

No 88.

It was decided, that when a bond is given blank in the creditor's name, an arrester should be preferred to any other person whose name should be filled up in the bond, unless intimated to the debtor before the arrestment.

PATRICK TELFER being cautioner to Samuel Veitch, and having arrested in the hands of Marjory Jamieson a certain sum due by her to the said Samuel, pursues for making furthcoming ; and, having referred the verity thereof to her oath, the same was circumduced against her. The decret being suspended, and she reponed, she depones, That in January 1663, she granted a bond to the said Samuel, blank in the creditor's name, containing the sum of 2060 merks principal, with annualrents and expenses, and that the most part thereof, the said bond, was resting ; and also deponed, that she never heard, by intimation, or otherwise, before the arrestment, or since, that there was any name filled up in the samen ; or that the sums therein contained belonged to any other person but the said Samuel ; excepting only, that in May or June last, which was both after the arrestment and decret following thereupon, Marion Geddes, whose name is now filled up in the bond, did serve inhibition against her thereupon ; likeas, the said Marion compeared and produced the extract of the foresaid bond, bearing date of registration prior to the arrestment, and craved to be preferred to the said Patrick. That being a matter of great importance as to blank bonds, and falling out daily, and never hitherto decided ; the LORDS were the more exact in it, and after a very great debate, found that the arrester ought to be preferred, and they did prefer him ; and declared, that in all time coming, they would so decide, that when a bond was given blank in the creditor's name, the arrester should be preferred to any other person whose name should be filled up in the bond, unless the same filling up were intimate to the debtor before the arrestment. This is the first time that ever this was debated, *et bene judicatum.*

Newbyth, MS. p. 39.

No 89.

Two decrees of furthcoming being pronounced in the same day ; the one arrestment being laid a day sooner than the other, was preferred.

1666. February I.

COLONEL CUNINGHAME *against* LYLL.

IN a competition between Colonel Cuninghame and Lyll, both being arresters, and having obtained decreets, to make furthcoming in one day ; and Colonel Cuninghame's arrestment being a day prior ; he *alleged* he ought to be preferred, because his diligence was anterior, and his decret behoved to be drawn back to his arrestment. It was *answered* for Lyll, That it was only the decret to