

would be valid to exclude the arresters from any thing after the current term, unless he were instructed bankrupt, or that the assignation was contrary to the act of Parliament 1621.

*Fol. Dic. v. 1. p. 55. Stair, v. 2. p. 223.*

1674. January 15.

BAILLIE against NASMITH and the TENANTS of LETHAM.

WILLIAM BAILLIE of Torwoodhead, having arrested in the hands of the Tenants of Letham, any sums due by them to the Lord Forrester, for payment of a sum due by Forrester to him, pursues now the tenants for making furthcoming. Compearance is made for young Poffo, donatar to his father's liferent, who hath right to the rents of Letham, as husband to the Lady Letham, the Lord Forrester's mother, and for him and the tenants. It was *alleged*, That the only sum due by the tenants of Letham to the Lord Forrester, was, by decret of Council produced, whereby the tenants were decerned with the Lady Letham and her husband, to repair the house of Letham, liferented by the Lady, betwixt and Lamma's thereafter; or otherwise, to pay to the Lord Forrester, as heritor thereof, 3200 merks, to be employed for reparation of the house; which sum being, by the decret, destined for that particular use of reparation, was not arrestable, for the Lord Forrester's debt, or applicable to any other use; especially seeing not only the Lord Forrester himself was interested, but the Lady liferenter, and her husband, who had the benefit of the house when repaired; so that the tenants thought that they were in security to pay the sum to Forrester, even after the arrestment, and had paid a great part of it.

THE LORDS found, That this sum being decerned and destined for the particular use of reparation, which did not only concern the Lord Forrester, but others, that it was not arrestable for Forrester's debt.

*Fol. Dic. v. 1. p. 56. Stair, v. 2. p. 253.*

1705. June 26.

STEWART of Torrence against WALTER STEWART of Pardovan.

THE LORDS decided the competition betwixt Stewart of Torrence, and Walter Stewart of Pardovan, creditors to Cornwall of Bonhard. Pardovan raises an adjudication of an heritable bond for L. 10,600 Scots granted by Bonhard to George Dundas, and executes the same. Three days after this citation, Torrence arrests the said debt, but Pardovan obtains his decret of adjudication before Torrence gets his decret of furthcoming.—*Alleged* for Torrence, He ought to be preferred, because the term of payment of the sum arrested not being come at the time he laid it on, it was moveable, and consequently arrestable, and not the subject of

No 39.

No 40.

Tenants were decreed to pay a sum to the heritor, to be employed in repairing a house liferented by a third party. Not arrestable, being destined for a certain purpose, in which a third party was concerned.

No 41.

Competition between an adjudication and an arrestment of an heritable bond.