

arrestment on a process against her as executrix to her husband, but which was reversed by the House of Lords. The observation in general I agree with but not universally, for, *causa cognita*, I see no reason why inhibition may not go out against an officer if there be hazard of dilapidation, but that cannot be applied to this case.

No. 4. 1738, Jan. 26. *CORSAN, &c. against MAXWELL.*

See Note of No. 16. *voce* ADJUDICATION.

No. 5. 1738, Feb. 14. *HARVIES against GORDON.*

I was in the Outer-House. I am told the Lords found the sum decerned for not being libelled was not secured by the inhibition upon the dependance.

No. 6. 1738, June 27. *PRICE against MAJOR JOHNSTONE.*

I KEEP these papers because the case is new, though it may frequently occur. The Lords would not recall or restrict the inhibition unless the petitioner would give evidence that no debt was due, or how much, neither would they oblige the pursuer to insist before the day that he should think fit to fill this in his summons, but ordered him to give the petitioner a copy of his summons with the day filled, that the petitioner might take his remedy by calling upon his copy after that day, or raise a summons as accords.—N. B. It had some influence that the pursuer was willing to pass from his arrestment on the petitioner's own bond, though that could have no effect on the point of law.

No. 7. 1742, Feb. 5, 17. *A. against B. (BROWN against CROKAT.)*

AN inhibition being raised on a gratuitous bond payable after the granter's death failing heirs of his body, which the Lords thought they could not have given *causa cognita*, they therefore would not sustain it against an onerous purchaser; and 17th February adhered and refused a bill without answers, though it was appointed to be seen as to other points.

No. 8. 1742, June 2. *CREDITORS of STEWART against DUNBAR.*

THE accountants usually employed in this Court, viz. George Boswell, Francis Farquharson, and Andrew Chalmers, being called by order of Court, informed us that in making their schemes where creditors adjudgers are preferred upon an inhibition to infestments or other rights, posterior to their inhibition, but prior and preferable to their adjudications, they are in use to make schemes of division among the whole creditors, and next a scheme of division leaving out the creditors cut out by the inhibitions, and so much of the inhibiting creditors' sums falling to them by the second division, as they want by the first, they deduct from the shares falling by the first scheme to the creditors cut out, whereon they make the scheme according to the inhibiting creditors accumulate sums,—and agreeably to that report, we, 3d December 1741, upon a division preferred Burgie for his accumulate sum in his adjudication, agreeably to our late decision betwixt Corsan

and Rae, and did the same afterwards 5th February 1742 Nisbet against Baillie; and 2d June, on a reclaiming bill by the creditors, adhered. Again found 14th June 1743, Govan against William Hay.

* * In the case of Nisbet, the Lords adhered to my interlocutor, as to the inhibition and adjudication, but prejudice to be heard on the extent of the sum truly paid.

No. 9. 1743, July 19. TUDHOPE *against* HIS WIFE and CHILDREN.

I reported *ex parte* a question to the following effect;—Tudhope, by a bond of provision, became bound to lay out and bestow 4000 merks and to take the securities to himself in liferent, and to his wife to a certain extent in liferent, and to the children of the marriage in fee, and providing also certain parts of the conquest to the wife in liferent and the children to be procreate in fee,—and friends named at whose suit execution should pass;—and they raised and executed inhibition upon it. Tudhope the father having sold some land, the buyer suspends the minute on account of this inhibition,—which coming before me I found that that encumbrance behoved to be purged;—and in order to that Tudhope raised reduction of the inhibition, which was remitted to me,—and I sustained the reason of reduction in so far as concerned the clause of conquest, and repelled it as to the wife's liferent of the sum certain. But as there was no compearance for the defenders, the wife and children, I reported the question as to the children's interest by the bond of provision, and the Lords sustained the reason of reduction, for they thought the father was fiar and therefore might dispose.

No. 10. 1749, Feb. 22. ROBERT BLACKWOOD *against* MARSHALL, &c.

MARSHALL on a decret of ours charged Blackwood with horning, and executed inhibition. Blackwood complained of the inhibition as invidious, and upon the vote, five and the President were for stopping, but it carried to refuse. *Pro* were Milton, Minto, Drummore, Dun, Strichen, *et ego*. *Con.* were Kilkerran, Justice-Clerk, Monzie, Murkle, Shewalton, and President.

No. 11. 1750, Jan. 16. CLEUGH *against* WILLIAM SELLERS.

LANDS being purchased after inhibition, and afterwards reduced *ex capite inhibitionis*, and then adjudication led, which is as old as 1711; the adjudication was found effectual against the purchaser as to all the legal consequences of it, not only the accumulations, but also the benefit of the legals expiring, agreeably to the decision, 28th January 1738, Corsan against Rae, (No. 4.) and 3d December 1741, and 2d June 1742, Stewart against Dunbar of Burgie, (No. 8.)

No. 12. 1750, Feb. 2. CREDITORS of HOPE of Kerse, *Competing*.

IN 1734 a process of mails and duties was raised by Horsburgh, and the creditors having raised a multiplepointing, four other creditors compeared, viz. the Society for