

- No. 3. Memorials having been accordingly given in,
 “ The Lords, in respect the arrestment used by Brown was not in a mari-
 “ time cause, therefore adhered to the Lord Ordinary’s interlocutor.” And
 again adhered, on a reclaiming petition and answers.

Act. *M’ Laurin.* Alt. *Ilay Campbell, J. Boswell, Cullen.* Clerk, *Tait.*

Fac. Coll. No. 64. p. 155.

1801. June 9. WILLIAM LAIDLAW against JOHN WYLDE.

No. 4.

The exemp-
 tion of mem-
 bers of the
 College of
 Justice from
 inferior judi-
 catories, must
 be pleaded in
 the inferior
 court.

Professors’
 salaries are
 arrestable,
*salvo beneficio
 competentie.*

WILLIAM LAIDLAW obtained decree before the Sheriff of Edinburgh against Mr. John Wylde, advocate, Professor of Civil Law in the University of Edinburgh, for payment of a bill accepted by Mr. Wylde, to which the pursuer had right by indorsation. No objection was there stated to the jurisdiction of the Sheriff. Upon this decree, the pursuer arrested Mr. Wylde’s salary in the hands of the Magistrates of Edinburgh.

Mr. Laidlaw raised a forthcoming, and afterward, (other creditors having appeared), a multiplepointing, in name of the Magistrates, both in the Court of Session.

The Lord Ordinary having preferred the pursuer in terms of his libel; in a petition for Mr. Wylde, who enjoyed a pension from the Crown, it was, *inter alia*,

Pleaded: *1mo*, The decree of the Sheriff was null, as pronounced against a member of the College of Justice, who was not subject to his jurisdiction; Bankt. B. 4. Tit. 7. § 11.; Dict. *voce* COLLEGE OF JUSTICE.

2do, Professors’ salaries being alimentary, and given to enable them to maintain a suitable station in life, are not arrestable.

Answered: *1st*, The privilege of members of the College of Justice is not effectual, unless pleaded in the inferior court.

2do, If Mr. Wylde had been pursuer of a *cessio bonorum*, he would have been obliged to give up a reasonable proportion of his income to his creditors, and, having a pension from the Crown, he would not have been allowed likewise to retain his salary. The present case must be decided on the same principle. There is nothing in the nature of a Professor’s salary which excludes arrestment, though, where he has no other income, he may plead *beneficium competentie*, 5th March 1768, Grierson, No. 102. p. 11784. 19th May 1791, Mackenzie, No. 90. p. 10413. 23d February 1773, Holiday against Macphail, No. 58. p. 729. Spottiswood, *voce* PENSION, Act. Sed. 11th June 1613.

The Court being unanimously of opinion, that the respondent was right on both grounds, adhered to the Lord Ordinary’s interlocutor, and (26th June) refused a petition without answers.

Lord Ordinary, *Herwand.* Act. *Maxwell Morison.* Alt. *Fraser Tytler.*
 Clerk, *Menzies.*

D. D.

Fac. Coll. No. 135. p. 531.