

Arrestment affects only bygones and the term current.

1612. *March 23.* MR ROGER MOWAT *against* WALTER DICK.

No 88.

ARRESTMENT found null of the Whitsunday term duty, because made in February before the term.

Kerse, (ARRESTMENT.) MS. fol. 235.

1624. *March 23.* BROWN *against* TENANTS and HALIBURTON.

No 89.

IN an action pursued at the instance of one Brown, for making of the mails and duties of a tenement of land in Edinburgh furthcoming, which was arrested in the tenants hands, for satisfying of a debt owing to him by his debtor, master to the tenants, and heritor of the land; wherein compeared one Haliburton, who had acquired, from the said heritor, infestment of the said tenement, before the pursuer's arrestment, for debt owing to the said Haliburton, and who had set a back-tack to the heritor, the common debtor, for yearly payment of a certain duty, with provision, if he failed in payment two terms, the tack should expire; and the land remain with him irredeemably, whereupon he had obtained a declarator, decerning the tack to be expired; which declarator was obtained in December 18. 1623, and the summons and action was intented before the term of Martinmas the same year 1623, which term's mail was only controverted in this process; wherein the LORDS, notwithstanding of the date of the summons, and subsequent declarator, preferred the pursuer, who had arrested before the date of the said summons, and would not draw back the declarator, to give the excipient right to the said term's duty preceding his sentence; but found, that it should begin only to take effect for the subsequent terms, notwithstanding of his heritable right preceding the arrestment: And the LORDS found, that the arrestment affected the mails of that term, albeit it was laid on before the term of payment, and before the same could be fought from the tenants, seeing the same was running and *dies cessit* the time of the arrestment.

Arrestment affects the current terms rent, though laid on before it could be demanded from the tenant, because *dies cessit*. See Lelly against Cunningham, No 91. p. 766.

A&t. Mowat.

Alt. Haliburton.

Fol. Dic. v. 1. p. 57. Durie, p. 122.

1628. *January 18.* L. HALKERTON *against* FALCONER.

No 90.

IN a double poinding betwixt L. Halkerton and Hew Falconer, commissary of Murray, who both acclaimed from the Laird of Allardes, certain sums of money,

Arrestment of the annual-rents of an