

No 26. tion ; yet before that charge, the sum remained heritable, and so they preferred one George Smith to him.

Kerse, MS. (ARRESTMENT.) fol. 234.

1619. December 17. NAPIER *against* COUPAR.

No 27. THE LORDS found no action, to make arrested goods furthcoming, at the instance of Andrew Napier, because the day of payment of his principal bond was not come.

Kerse, MS. ARRESTMENT.) fol. 235.

1619. December 17 EARL OF MELROSE *against* TENANTS.

No 28. THE contrary found in favours of the pursuer against the debtor, whose day was not come, suspending the execution while the term should be past.

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

1620. July 14.

ANDREW COUPAR *against* AIKMAN, Cautioner for Sir William Irving, and Andrew Tod.

No 29.
A bond, heritable by destination, not arrestable after the term of payment.

THE LORDS found an bond, made by Sir William Irving to James Arnot, of 5000 merks, to be paid at Whitfunday 1619, then to be employed upon land or annualrent to James and the heirs male of his body ; whom failzieing, to Alexander Arnot his brother's son, and his heirs heritably, to the which use the same is definite by the tenour of the said bond, to be heritable after Whitfunday 1619, which was the term of payment, and therefore could not be arrestable by Andrew Coupar in September 1619.

Kerse, (De Heredibus.) MS. fol. 140.

1624. July 16. FORBES of Monymusk *against* GAIRDEN of Banchry.

No 30.
A sum, secured by infestment, was payable at four terms. The debtor was personally bound. The first moiety was arrested in the

GAIRDEN of Banchry sells his lands to Forbes of Monymusk for the sum of 20,000 merks ; for the surety of payment of the which sum, he transacts with Monymusk, and takes him obliged to give him an infestment of property of some lands, which, by that same contract, bearing that security, Banchry sets back again, for payment of the proportion of the annualrent of the principal sum, which principal sum is, by that contract, appointed to be paid at four several years expressed in the contract, viz. A fourth part at ilk Whitfunday, the first