

miles, and crossed the Forth, and was at a rendezvous at Couper : and that it was more pregnant than the probation adduced of his indisposition. Therefore the Lords thought a man who could do these acts of health might have entered himself to prison, and borne the *squalor carceris* : and found the bond of presentation forfeited and incurred ; and therefore ordained the cautioner to pay the debt.

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1693 and 1694. JAMES IRVING of ARTAMFORD *against* JOHN LIEGERTWOOD.

1693. *December 28.*—PHILIPHAUGH reported James Irving of Artamford against John Liegertwood. The competition was between an arrester of the mails and duties of lands, and an appriser of the same lands long before the laying on of the arrestment ; but the appriser had been *in mora*, neither having taken infetment nor pursued to put himself in possession ; and thereupon the arrester pleaded preference. The Lords found the old decisions favoured Liegertwood, the arrester ; as Durie observes, *14th February 1623, Saltcoats* : but the Lords of late had preferred apprisers, as on *23d February 1671, Renton, Lord Justice-Clerk, against Craigiehall*. And it being remembered that there was a late practick (*18th February 1692, Pilrig's Creditors against Closeburn,*) in favours of an annualrenter ; therefore they forbore to determine the point till they saw what had been done in that former case.

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1694. *January 20.*—The Lords, having advised the competition between Artamford, the appriser, and Liegerwood, the arrester, mentioned 28th December last, and having balanced the decisions on both sides,—preferred the appriser, in regard his lying out of possession so long did not so much appear to be collusive, and in favour of the debtor, as because there were other apprisers contending with him : but declared he behoved no longer to debar other creditors, but enter and possess till he were paid, that then they might have access.

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1694. *January 20.* The TOWN of EDINBURGH and the COLLEGE *against* SIR DONALD BAYN of TULLOCH.

MR John Bayn of Pitcairly having mortified two burseries to Edinburgh College, at £10 sterling each, whereof several years having run up in Sir Donald's hand unpaid,—the question was, Whether these bygone arrears should be added to make the pension of the two bursers greater ;—or if it was not fitter to make it a mortified stock and fund, whereon to erect a third burser, at £7 or £8 sterling *per annum*, seeing it would extend to that sum. And, though the Lords inclined to this last, yet, by a vote, they left the application of these arrears to the Masters of the College of Edinburgh, if so be the mortification bore, (which was not in the clerk's hands,) that it was made payable to the Town or College for the use of the bursers ; but, if it bore only to be for the bursers' use, the Lords declared they would apply it themselves. Another question was started : that Sir Donald undoubtedly ought to have the presentation and patron-