

that it was made to a minor and his mother as his curator *sine qua non*, and does not offer evidence that she was curator, nor that there were no more. 22d January, Adhered, and refused a bill without answers.

No. 6. 1745, June 5. MARY HAY *against* STEUART.

A HORNING and arrestment being raised by Thomas Blair of Newton, now deceased, which, and the ground of debt, he assigned to his wife, and she also confirmed, and used arrestment on the letters raised in her husband's name; Steuart also arrested, and afterwards objected, that neither letters of horning nor arrestment raised in name of one person can be executed in name of another; though there may be a difference in pointing where the Messenger is a judge. We directed Drummore, Ordinary, to call the Keeper of the Signet, and cause him report the opinion of the Writers. And 7th June, the Ordinary reported the unanimous opinion of the Clerks or Writers to the Signet by their Keeper, that neither horning, arrestment, nor pointing in a cedent's name or a defunct's, can be executed in the name of the assignee or executor; and we found the relict's arrestment null.

No. 7. 1749, July 14. TELFER *against* SPENCE.

A GRATUITOUS assignee suing, payment was sustained proveable by the cedent's oath. The cedent had gone out of the country and had been banished, and the question was, on whom it was incumbent to report her oath? and the Lords unanimously found, that the gratuitous assignee must report it.

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BANK.

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No. 1. 1735, July 25. DALRYMPLE *against* EXECUTORS of HALKET.

THE Lords adhered to their interlocutor of the first instant, finding that bank-stocks are simply moveable, and fall under the *jus mariti*.

No. 2. 1749, Feb. 24. BANK of SCOTLAND *against* ROYAL BANK, &c.

HUGH CRAWFORD sent a L.20 Bank note to a friend at Glasgow by the post, inclosed in a letter, which was taken out of the post-house and never came to hand; and he advertised it, distinguished the number, and particularly that he had indorsed it on the back. The note at last came to the Royal Bank with the indorsation scored, and they in common course exchanged it and other Old Bank notes with the Old Bank. Hugh Crawford hearing of this raised a multiplepointing in name of the Old Bank against himself and the Royal Bank, which was this day reported by Lord Strichen; and we thought there was not sufficient proof that it is *res furtiva*, and, if it were, thought that Hugh Crawford was *in culpa*. But we would not determine that point, but agreed to decide the general point, supposing there were proper evidence that this note was stolen; and we unanimously

agreed that Hugh Crawford had no condiction of this note, nor no action against either of the Banks on account thereof; for we thought that it would destroy all banking, if the objection *res furtiva* could affect Bank notes against *bona fide* possessors.

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BANKRUPT.

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No. 1. and 2. 1734, June 18. SNEE, &c. *against* CREDITORS of ANDERSON.

THE Lords found the reasons of reduction relevant—18th June.

THE Lords adhered, and particularly found that no general disposition can hinder creditors from using diligence.—12th July.

No. 3. 1735, Feb. 7. CREDITORS of DUFF *against* SIR JOHN GORDON.

THE Lords found, that the disposition by Patrick (Hay) M'Kay of Scourie to the defender Sir John Gordon of Embo, was a fraudulent contrivance devised and executed in defraud and prejudice of the just and lawful creditors of the said Patrick M'Kay, and that the defender Sir John Gordon was partaker with, and did wilfully assist the said Patrick M'Kay in covering and executing the said fraud, and therefore find the reasons of reduction relevant and proved, and reduce the same accordingly; and having considered the 18th act Parl. 23, James VI., intituled, &c., they in the terms thereof, "Declare the said Sir John Gordon a false, dishonest, and infamous person, incapable of all honours, dignities, benefices, and offices, or to pass upon inquests or assizes, or to bear witness in judgment, or outwith, in any time coming, and decern." 7th February, The Lords adhered simply.—Affirmed in Parliament, 25th March 1742.—(13th December 1734.)

No. 4. 1735, July 22. CREDITORS of CAVE *against* HENDERSON.

THE Lords found no spuilzie, and remitted to the Ordinary to hear parties on the point of right.

No. 5. 1735, Nov. 25. CREDITORS of MERCHISTON *against* CHARTERIS.

THE Lords found the heritable bond fell under the act 1696, and gave their interlocutor in the same words in this case, and in that of Creditors of Mathieson against Adam Smith.

No. 6. 1736, Feb. 3. CREDITORS of MERCHISTON, &c. *against* EARL of ABERDEEN.

THE Lords found the reduction competent and relevant upon the act 1696.