

it on the last day of grace; and that there was no necessity for previously presenting for acceptance, and protesting for want of it on or before the day of payment; with whom the merchants of London also agreed.

THE LORDS, therefore, receded from the judgment they had given in 1743, in the case of Ramsay and Hogg, and found, 'It was sufficient to protest the bill for not payment, within the days of grace; and repelled the defence of not duly negotiated, for not having presented the bill for acceptance when the same became due.' See This case by D. Falconer, Div. 4. Sec. 2.

*Kilkerran*, (BILL OF EXCHANGE.) No 23. p. 87.

No 83.

1768. November 17. GAVIN against KIPPEN and Co. and Others.

MESSRS DUNLOPS of Rotterdam, having sold the ship Dorothy to the Whale-fishing Company of Borrowstonnefs, at the price of L. 2100 Sterling, drew bills, for L. 400, on John Campbell, one of the partners, payable to David Gavin, to be placed to account of the Dorothy.

For Campbell's reimbursement, the Messrs Dunlops gave him an order on the Company; who afterwards obliged themselves to make payment to him.

Mr Gavin protested the bills for not acceptance; and Messrs Dunlops having failed, arrestments were used, by Kippen and Co. and Others, in the hands of the Whale-fishing Company.

In a competition, 'the Lords preferred Mr Gavin,' upon the principles established in the case, *Mitchel contra Mitchel*, No 60. p. 1464.; where it was found, that a protest for not-acceptance was equivalent to the intimation of an assignation.

It was *argued* for Kippen and Co. :—That, as the bills were drawn upon Campbell, and protested against him, there was no intimation to the Whale-fishing Company. But it was *answered*, That, after the obligation granted to Campbell, the price fell to be considered as in his hands; and was effectually assigned to Mr Gavin, by the bills drawn upon Campbell, and protested before the date of the arrestments.

*Act. Wight.*

*Alt. Lockhart.*

*G. Ferguson.*

*Fac. Col. No 79. p. 327.*

1778. March 4. JOHN SPOTISWOOD, against ARCHIBALD M'NEIL.

GRAHAME being indebted to Spotiswood, gave him a bill for the money on M'Tavish, his debtor. M'Tavish refusing to accept, the bill was duly protested for non-acceptance, and afterwards for non-payment, 1st May 1775.

Thereafter Spotiswood, and his attorney, raised diligence on the bill, and arrested, in the hands of M'Tavish, 30th October 1775; and brought a furthcoming. Archibald M'Neil, a creditor of Grahame's, likewise arrested in the hands

No 85.

A bill protested for not acceptance, found to be equivalent to an intimated assignation, and preferable to a pos-