

1779. January 23. ALEXANDER MELVIL against JAMES BARCLAY.

(The Court ordered the following state of the question betwixt these parties, with their judgment upon it, to be inserted in the books of sederunt.)

No 20.

“ IN a competition among the arresting creditors of a bankrupt tenant, upon the price of his effects, which had been sold by authority of the Sheriff, a question having occurred, How far the wages due to the farm-servants of a bankrupt tenant, for the term current at the bankruptcy, were to be considered as privileged debts, and preferable to arresters? THE LORDS, before answer, ordained an enquiry to be made into the practice of the Sheriffs of the different counties of Scotland as to that point. And reports having been accordingly received of said practice, from the Sheriffs of Edinburgh, East Lothian, Perth, Ayr, Aberdeen, Lanark, Roxburgh, Renfrew, Dumbarton, Dumfries, Selkirk, Ross, and Kincardine, the LORDS yesterday proceeded to take the same into consideration, and thereafter pronounced an interlocutor, Finding, that the wages due to the servants of a bankrupt tenant, that is, to the servants kept for the purposes of the farm, are privileged debts on the price of the bankrupt's effects, and are preferable to arresters.”

Fol. Dic. v. 4. p. 142. Fac. Col. No 53. p. 106.

1781. January 31. PETER WHITE and Others, against ALEXANDER CHRISTIE.

No 21.

CHRISTIE having been appointed factor on the sequestrated estate of James Small, a bankrupt tenant, but who likewise exercised the trade of a wright, and employed servants in both these capacities; applied to the Court by petition, praying them to authorise a division of the funds among the several creditors, particularly, the landlord, the farm-servants, and the mechanical servants.

It had been found, by the above decision which the Court ordered to be inserted in the books of sederunt, 23d January 1779, “ That the wages due to such servants of a bankrupt-tenant as are kept for the purposes of the farm, are privileged debts on the price of the bankrupt's effects, and are preferable to arresters.” And the factor desired to be certified, whether this bankrupt's mechanical servants were not entitled to a similar preference upon the materials of his handicraft.

THE LORD ORDINARY on the bills, to whom this application was remitted, “ Found, that, on the proceeds of the stocking, the landlord was preferable, *primo loco*, the labouring servants preferable, *secundo loco*, to the extent of a half a year's wages; but that the servants, the artizans, were only to be ranked as common creditors.”

No 21. A petition reclaiming against this judgment, was refused by the Court without answers.

Lord Ordinary, *Halles.*

Act. Macleod.

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Fol. Dic. v. 4. p. 142. Fac. Col. No 24. p. 45.

1784. February 12. LAWSON against MAXWELL.

No 22.

A PERSON afflicted with a paralytic disorder was brought from Scotland to London, and put under the care of Maxwell, a surgeon, who attended him for ten months. He became insane, returned to Scotland, where he was attended by another surgeon, and died six months after. Maxwell claimed preference for his account of medicines and attendance during the ten months, as being a privileged debt. *Urged*, This privilege extends only to medicines furnished on deathbed, which term the law limits to 60 days preceding death. Besides, the debt was contracted in England, where there is no such legal privilege. THE LORDS rejected the claim of preference, chiefly, as it appears, on the last ground.

Fol. Dic. v. 4. p. 142. Fac. Col.

See PRESUMPTION, DIV. 2.

* * * This case is No 92. p. 4473, *voce* FOREIGN.

1789. February 3.

No 23.

Wages, or a yearly salary to the overseer of an extensive distillery, found not a privileged debt.

WILLIAM RIDLEY against The CREDITORS of JAMES HAIG.

WILLIAM RIDLEY was employed, with a salary of L. 300 per annum, as overseer in an extensive distillery carried on by James Haig.

After Haig's bankruptcy, the trustee on his sequestrated estate having, in consequence of particular instructions from the creditors, made payment of a term's wages to the farm-servants, and also to those who had been employed for domestic purposes, Mr Ridley claimed a preference, in the same manner, for a year's salary. He

Pleaded; No reason surely can be given, why an ingenious artisan or mechanic should not have the same indulgence which has been given to those employed in the meaner and less profitable business of cultivating land, and even to such as have been retained perhaps for the purposes of domestic luxury and extravagance. If, in general, the privilege be an encroachment on the just rights of other creditors, it ought to be done away; but if, on the other hand, it is founded on the wisest and most equitable grounds, by securing to those who commonly have no other support, that livelihood which their industry has earned, while it tends to prevent those illegal combinations that would other-