

only difficulty in this case is, that Dr Heron has the appearance of a land estate in this country. I do not think that this is enough to bar an extraordinary application: the creditor is not bound to take the whole circuit of the law, in order to operate payment. In some cases, *tutius est personæ adhærere quam rei*.

On the 14th December 1773, "The Lords assoilyied."

*Act.* A. Lockhart. *Alt.* P. Murray.

*Reporter,* Stonefield.

*Diss.* Pitfour, Alva.

1774. *January 28.*—COALSTON. The distinction is well established between one having a residence in Scotland and one not.

PITFOUR. I would be of the same opinion, were it not that Dr Heron has a land estate.

JUSTICE-CLERK. The caution required was not severe, it was only *judicio sisti*: when there is a suspicion of a *meditatio fugæ*, the arrestment will be good, although there is a land estate. Dr Heron must be considered as a stranger, because his residence was in London: there was no oppressive intent here, but a laudable purpose of doing the duty of an executor.

AUCHINLECK. I do not like a man who tries to shake himself loose of a debt by a complaint of this kind.

On the 28th January 1774, "The Lords assoilyied Captain Dickson;" adhering to their former interlocutor.

*Act.* A. Lockhart. *Alt.* P. Murray.

1774. *January 28.* ISOBEL WRIGHT *against* MESSRS ANDERSON and LAURIE.

#### ARRESTMENT.

Case where Arrestment laid on the same day, at different parties' instance, one execution bearing between the hours of five and six, and another execution bearing between the hours of five and seven, were preferred *pari passu*, on account of special circumstances, and particularly that of one messenger having served the whole arrestments.

[*Fac. Coll. VI. 272 ; Dict. 823.*]

PITFOUR. When we go to examine minutes and hours, there must be a demonstrative priority: without that, arrestments must come in *pari passu*.

HAILES. The conjecture of the Ordinary is certainly right. The messenger first arrested in Edinburgh, then in Leith, and then again in Edinburgh: no reason can be assigned for his having arrested at Leith at different times: his execution does not say so.

COALSTON. It would have been a gross breach of duty, had the messenger not executed both arrestments at the same time, while he was possessed of both diligences.

On the 28th January 1774, "The Lords preferred the arresters *pari passu*;" adhering to Lord Coalston's interlocutor.

*Act.* R. Blair. *Alt.* D. Armstrong.

1774. February 4. JOHN REYNOLDS of London, Merchant, *against* JAMES SYME and JOHN WEMYSS.

BILL OF EXCHANGE.

A bill drawn from Scotland upon England, is accounted a foreign bill, as to the time limited for notification of its dishonour.

[*Faculty Collection*, VI. 280; *Dict.* 1,598.]

HAILES. No one values the Union more than I do. The best way to preserve that Union inviolate, is, to take care to preserve the distinction between the covenants and laws of the two parts of the United Kingdom. A bill drawn upon a merchant at London, payable at London to a merchant at London, is a foreign bill with respect to Scotland; just as a bill drawn upon a merchant at Edinburgh, payable at Edinburgh, to a merchant at Edinburgh, is a foreign bill with respect to England. The English authorities for this are express. The English would not consider the bill in the latter case as *inland*: why should the Scots in the former case? As to the notification on the fifth post-day, the allowing three posts does not mean either three days or six days, but only so many opportunities of notification. When opportunities are more rare, a longer space will be allowed. When more frequent, a shorter. The great purpose of multiplying the post-days was, that intelligence, especially of this kind, might be more expeditiously conveyed from one part of the kingdom to another. *Here* the argument is, that intelligence must be understood to be no more expeditious now with *five* posts in the week, than formerly with *three*.

MONBODDO. I imagined that, before the late Act of Parliament, even inland bills, if dishonoured, were to be intimated within three posts. I think that *three* posts mean *three* opportunities.

COALSTON. In questions that strike so deep as to merchants, in a matter of pure mercantile law, I would have wished to know whether the alteration of the posts had made any difference in practice.

ALVA. If we deviate from the rule of three posts we render every thing dubious.

AUCHINLECK. The public posts are known to every merchant. They have been established for many years. The defenders have not availed themselves