

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.”