

S E C T. IV.

Arrestment of the Debtor's Effects.—Arrestment in the hands of a person not subject to the jurisdiction.

1610. December. ELVIES against VERNOR.

ARRESTMENT was granted by the Lords at the instance of Elvies, Englishman, upon the goods of Vernor, Englishman, neither of them being in this country, *animo remanendi*; and upon bonds made in England, not bearing any condition of payment to be made in this country; which I judged to be a dangerous example and preparator, to our merchants trafficking in England.

Fol. Dic. v. 1. p. 329. Haddington, MS. No 2055.

No 45.

1683. December. THOMAS YOUNG against ARNOLD, or ARNAUD.

IN an exhibition raised by Captain Young, of a testament made by John Scouler at Rouen, against Mr Arnold a Frenchman, there being no compearance for the defender, the pursuer gave in a bill to the Lords, representing, that Arnold colluded with some persons at Rouen, to suppress Mr Scouler's testament, and were withdrawing his effects out of Scotland, so that when he should be holden as confessed upon the having of the testament, he would have no estate here to be affected for damage and interest; and therefore craving, that the petitioner might be allowed to retain any of Arnold's effects that were in his own hand, till the event of the exhibition, and to arrest such as were in other hands, till the defender found caution *judicio sisti et judicatum solvi*.

Answered for Mr Arnold; That he being a stranger Frenchman, not liable to the Scots laws, either *ratione originis* or *domicilii*, was not bound to compear; and though the Session be *forum competens* to all causes concerning lands here, wherein strangers have interest, yet moveables, and moveable obligations of whatever nature, *quæ sequuntur personam*, should not be considered as local; for as to these *actor debet sequi forum rei*.

Replied for the pursuer; By the custom of other places, and of our Admiral court, strangers pursued here may be arrested, till they find caution *judicio sisti et judicatum solvi*, for securing the pursuer's payment in the event of the plea; and an arrestment upon a dependence, or otherwise, in common form, would not be effectual, seeing a forthcoming could not be obtained, in respect that requires the calling of the principal party, who would not be liable to compear.

No 46.

The effects of a Frenchman in Scotland might be arrested till he found caution to the value thereof, *judicio sisti et judicatum solvi*.