

No 1. lie; and an evident might ay be transumed before any judge ordinary. The LORDS found the bailie might have transumed, although he was not judge competent, or ordinary judge to the defender.

Colvil, MS. p. 443.

1665. *January 20.* LORD LOURIE *against* GOVAN.

No 2.

IN a process for making arrested sums forthcoming, two arresters, viz. my Lord Lourie, and another competing; it was *alleged* for Lourie, That the first arrestment is null, because the party was out of the country when it was only made at his dwelling-house, which it is not legal; seeing all summonses, intimations, premonitions, requisitions, and all denunciations against parties out of the country, must be by letters of supplement from the Lords, executed at the market-cross of Edinburgh, and pier and shore of Leith; so must arrestments against these who are out of the country be there.

“ Which the LORDS found relevant, and preferred the second arrestment personal.”

Fol. Dic. v. 1. p. 547. Stair, v. 1. p. 253.

* * * Newbyth reports this case :

IN a summons of multiple-poinding, raised at the instance of John Govan against the Creditors of Hary Hope, who had arrested certain sums of money alleged due by John Govan to the said Hary, there was compearance made for the Lord Lourie, one of Hope's creditors, and also for William Cunningham, elder, merchant in Edinburgh, who had both arrested the said sum upon the 10th of March 1664, in the hands of John Govan, being out of the country, and left a copy at his dwelling-house; and the Lord Lourie, upon the 16th of March thereafter, he was returned personally apprehended; the debate being anent the competition, in regard it was asked by my Lord Lourie, that Cunningham's arrestment was null, being no letters of supplement raised, and Govan, in whose hands the arrestment being used, was out of the country; the LORDS found the arrestment at Cunningham's instance null for want of letters of supplement, which they found should have been executed at the market-cross of Edinburgh, pier and shore of Leith; and therefore preferred the Lord Lourie, notwithstanding he was posterior in diligence.

Newbyth, MS. p. 19.