

men of the Excise. because seeing Arrestment doth Arrest
 only in General all kinds of Money or goods which a persons hand
 due or belonging to the Arrestors Debtor for satisfying the ground
 of the Arrestment, it can have no greater effect than a Depreciation
 of lands to be appraised, or Citation on a Summons of adjudication,
 and consequently it but an Inchoate diligence that binds for no posi-
 tive right, but only renders the subject Litigious, and renders him
 against whom Arrestment was served to prejudice the same by any
 voluntary deed Stair lib. 3. tit. 1. § 39. So that a Creditor pinding
 goods belonging to his Debtor will be preferred to another who has
 before arrested them; as in a judge of lands is preferred to a
 Inhibitor: But with this disparity, that the preferred adjudicator
 Debt must be anterior to the Inhibitor, which is not in Contra-
 ting Debt as well as in Assigning the subject; where as the more
 ready Execution of a Creditor pinding even for a posterior
 Debt, will furnish him preference to the anterior Arrestor, be-
 cause Arrestment doth not prohibit the person whose goods
 are arrested to Contract Debt. And if such pinding was used
 after losing the Arrestment, the cautioner in the Loosing bid
 be free; he being only bound, that the Arrestment shall have
 like effect. The like will take place in the Arrestment of sums
 of Money: for a second arrester Insisting with Diligence in his
 fourth coming, is preferable to the first who has been in every
 Stuart answers to Dirls Doubts ed. Arrestment. And if
 a later was preferred to an Arrestor whose Arrestment was
 posterior to the Citation in the adjudication, and the Decree
 of fourth coming also posterior to the Decree of Adjudication
 26 June 1705. Stuart of Forreuce contra Stuart of Compare
 Cacl 19 Par. 2 Feb. 3 Ch. 2) Makes such a Citation equivalent to an
 appraising with Infeftment: because it hath only that effect in
 a Compulsion with voluntary rights 1 Feb. 1684 Anderson contra
 Erichtown obiter. by Newtown Arrestment affects only present
 Debts or goods owing or belonging to the Arrestors Debtor Stair
 ibid. § 31 Stuart answers ibid. wherein Arrestment differs
 from Inhibition, that affects both a querenda et a quifila because
 it is not so practicable or convenient to Res train equally from
 merce of Moveables as that of Heretage. But Arrestment is
 not eating, missed by the death of the Arrestor Mc Kenzie Inst
 lib. 3. tit. 6 § 6. But Sir James Stuart ibid. Disting. whether in the
 Part

from an Arrestment on a Dependant,
 Case an Arrestment on a Decree, holding that an Arrestment on a De-
 pendance cannot subside after the Arrestors death for that the dependance
 falls thereby; but that an Arrestment on a Decree is Beneficial to the
 Arrestors heir or Executor, and doth not fall by his death. Again Ar-
 restment is not extinguished by the death of the owner of the debts
 or goods arrested 19 Feb. 1687 Glen contra Hume 2 January 1681
 Riddell contra Maxwell Stair lib. 3. tit. 1 § 26. Mc Kenzie ibid. Albeit
 Sir John Gifford observes (Decis. 53 Lesly contra Bavin 6 Decemb.
 1666) that once the Lords found that notwithstanding of such a
 Deceit and Incomplete Release by Arrestment, the Debtor whose
 Money was arrested Dying, the sums arrested remained in his
 eyes and ought to be confirmed, so that the Arrestor could not have
 action of fourth coming against the person in whose hands the
 Arrestment was served. A person in whose hands Money
 are arrested, cannot afterwards, under the Arrestment he looks
 pay to his Creditor as to his heir or Executor without being
 liable to repay to the Arrestor the sums arrested, as if they still
 remained in his hands. Proposers own Labels and Debt
 holdifidore. If goods arrested be sold to the owner, he must
 whom the Arrestment was served is not only bound to make
 the value of the summing to the Arrestor, but also liable to the
 pain of Breach of Arrestment, which is Punishment of 40 shillings
 besides an arbitrary punishment act 11 & Par. 7. C. but payment
 of arrested Debts cannot incur Breach of Arrestment, Hope
 May. Prat. Jul. Arrestment Dunbar contra Hony. Vid. Christian.
 Jul. 3 ad Leg. Mech. lin. Argenti. Jul. Det. Arrest. §. Nor can
 a person in whose hands Arrestment is used to safely pay or perform
 to one of the owners Creditors upon a Decree obtained at his
 Instance, without calling them all in an Action of Multiple poid
 ding to Dispute and Dismiss their Interests Stair lib. 3. tit. 1 § 39.
 But such uncautious payment or delivery doth without a
 Direct assignment, substitute him in place of the Receiver,
 so as he may found on his rights if preferable to the justifying
 Arrestors Stair ibid. He who unwarrantably recovers the
 subject arrested will also be Compelled, to make Restitution
 thereof to the Arrestors for the Maxim qui bona fide sumit
 Receipt licet a Non Debitore Conditione non tenetur, holds
 only in voluntary payments, where the subject is not Litigio-
 us Stair ibid. § 40. Again, albeit the person in whose hands
 the Arrestment was used carry equally fair to all Competitors,
 yet if the Common Debtor collude with some and oppose
 others, he who by his partial Gratification obtains payment will