

said to have been executed here; *Voet.* lib. 1. tit. 2. § 16.; Erskine, b. 1. tit. 2. § 16.; Scruton *contra* Gray, No 35. p. 4822.

No 36.

The question having been reported to the Court on memorials, the LORDS were unanimous in altering the judgment of the Commissaries. The defender's having been absent from his duty, it was observed, might subject him to some military censure, but a domicil could not be created without residence; and the circumstance of his having a few articles of furniture in Scotland, at the date of the citation, without any arrestment of them, was equally ineffectual.

“ THE LORDS remitted to the Lord Ordinary, to remit the cause to the Commissaries, with this instruction, that they dismiss the action.”

Lord Reporter, *Dreghorn.* Act. *Dickson.* Alt. *Maccormick.*  
*6.* *Fol. Dic. v. 3. p. 239.* *Fac. Col. No 62. p. 112.*

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DIVISION V.

Arrestment *Jurisdictionis Fundandæ Gratia.*

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SECT. I.

Arrestment of the Debtor's Person.

1527. *March 27.* CURL *against* WATSON.

No 37.

ANE stranger being persewit within this realme befor ony Judge, for ony civil cause or actioun, as for debt, aucht and sould find cautioun *de judicio sisti et judicatum solvi.*

*Fol. Dic. v. 1. p. 328.* *Balfour, (CAUTION.) No 4. p. 192.*

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1564. *January 22.* AN ENGLISHMAN *against* ANGELO an Italian.

No 38.

ANENT the action persewed be ane Englishman againes ane Italian that was in this countrie, it was *allegit* be the said Englishman, That the said Italian