

arrested by John Simpson, creditor to Blair, the LORDS found, That it was arrestable, albeit it was destined to be employed by the said Blair at the term of payment; and found it not an heritable sum, as not subject to arrestment, in respect of the said destination, seeing there was no annualrent conditioned to be paid therefor by the said Anthony: And also found, That sentence might pass therefor, albeit the term of payment was not come the time of the arrestment, but that it was conferred to a term after Anthony's decease, and albeit Blair himself could not seek it before the term; for this cause was considered as a declarator in favours of the arrester, to prefer his diligence, and superseded the execution of his decret while the term of payment should come; the pursuer's sum was owing by an heritable bond bearing annualrent yearly. Also the LORDS found, That this sum arrested should be made forthcoming to the pursuer at the term of payment, not only for the principal sum addebted to the pursuer, and the annualrents owing the time of the arrestment, but also for all the annualrents thereof in time to come, ay and while the foresaid term of payment were come, to the which the said sum arrested is conferred to be paid, and that the pursuer needed not to arrest yearly hereafter for the annualrents that shall be owing. (*See HERITABLE and MOVEABLE. See LEGAL DILIGENCE.*)

A.G. Gilmor.

Alt. Barclay.

Clerk, Gibson.

*Fol. Dic. v. 1. p. 55. Durie, p. 681.*1634. July 29. L. LUGTON *against* CREDITORS OF DISHINGTON.

L. LUGTON being debtor to William Dishington in a sum to be paid at a term, and to pay annualrent therefor yearly after the term, while it were repaid; which sum being arrested by a creditor of the said William Dishington's, who pursuing to make the same forthcoming, conform to the arrestment, it was found, That the said sum, owing by the bond, of the tenor foresaid, was heritable, and consequently not being made moveable by a charge, preceding the arrestment, it was not arrestable.

*Fol. Dic. v. 1. p. 55. Durie, p. 735.*1635. January 29. KER *against* KNOWS.

ONE Ker, donatar to Robert Mudie's escheat, after general declarator thereon, and also after special obtained against one Craw, debtor of a sum to the said Robert Mudie; he arrests in Mr Christopher Knows' hands the like sum, owing by him to the said Craw, and pursues to make it forthcoming. And the defender *alleging*, That the sum was not arrestable, because the same was owing by a bond, the term of payment whereof was Whituesday; and in case of failzie then of

No 34.

a debtor's death, was found in the mean time arrestable.

No 35.

A sum was payable at a term, and the debtor bound to pay annualrent after the term till payment. This sum, as being heritable, was found not arrestable.

No 36.

A sum, in the situation of the above case, arrestable before the term of payment.