

S E C T. III.

Process in Scotland upon foreign Deeds.

1702. *January 10.* CHATTO *against* ORD.

No 21. IN a pursuit in Scotland, upon an English bond, the defender denied the subscription, and insisted, upon the law of England, that the bond was not probative, unless the pursuer would prove by the witnesses insert, that it was *factum*. THE LORDS found this impracticable at this distance, and therefore repelled the allegiance.

Fol. Dic. v. 1. p. 319. Fountainball.

See this case, No 13. p. 4447.

1739. *July 12.* KINLOCH *against* FULLERTON.

No 22. By the laws of England, the heir is not liable to pay his predecessor's debts, unless where the predecessor expressly binds his heirs as well as himself. In a process against the heir who succeeded to his estate in Scotland, for payment of a promissory note contracted by the predecessor, in England, where he had long resided, and made his money, it was *objected*, That the heir was not bound in the promissory note; that the *locus contractus* must be the rule; and that if the obligation was so limited, as to be good only against the executors in England, it would be absurd to give it a stronger effect when pursued in Scotland. It was *answered*, That whatever peculiarity may be in the practice of England, we follow the law of nations, which makes people's effects liable for payment of their debts; and therefore, provided a foreign deed be habilely executed, according to the forms of the place, we give it all effects that such a deed can have, executed in Scotland. THE LORDS sustained process against the heir.

Fol. Dic. v. 1. p. 318.

* * C. Home reports the same case :

THE deceased Dr Fullerton, a Scotsman by birth, resided most part of his life in London, and died there. Some time before his death, he contracted several debts, particularly a promissory note of L. 100 to Hugh Fraser, and some book-accounts to persons at London, who assigned their respective claims to