

1732. July 20. CRAWFORD *against* SIMPSON.

No 244.

THE quinquennial prescription of arrestments found interrupted by a multiple-poining raised by the arrestee, executed against the arrester, and seen and returned by his procurator; for a multiple-poining is considered as a common process, which any of the creditors may take up and obtain decret upon; whence it must have the same effect in law as if it were at the instance of the arrester himself. See APPENDIX.

*Fol. Dic. v. 2. p. 117.*

1774. July 28.

MARGARET THOMSON and THOMAS AINSLIE, *against* WILLIAM SIMPSON.

IN a competition between these parties,

*Objected* on the part of Simpson, That Thomson and Ainslie could draw no benefit from an arrestment which they had used in September 1761, as creditors to one Tait, by an accepted bill, in the sum of L. 173 Scots of principal, and interest due thereon, to which they had acquired right, because cut off by the quinquennial prescription.

*Answered*; The arrestment in question is at this moment a valid and subsisting diligence; for, that there was a process of multiple-poining raised upon that arrestment immediately after the arrestment was laid on, which was conjoined with an action of spuilzie, brought at the objector Simpson's instance against one M'Lean, who had executed a poining of part of the common debtor's effects, to which Simpson alleged he had a disposition; and, being so conjoined, the proceedings were continued, without sleeping, till the 23d of July 1767, and were again wakened on the 16th January 1771, a year and several months before the five years elapsed; which circumstance, of itself, is sufficient to keep the arrestment from prescribing.

But, *2do*, To put an end to any doubt upon this head, there is a judgment of this Court, upon this precise point, "The quinquennial prescription of arrestments found interrupted by a multiple-poining raised by the arrestee, executed against the arrester, and seen and returned by his procurator; for a multiple-poining is considered as a common process, which any of the creditors may take up and obtain decret upon; whence it must have the same effect in law as if it were at the instance of the arrester himself;" 20th July 1732, Crawford *contra* Simpson, No 244. *supra*. Now, the summons of multiple-poining, in the present case, quadrates in every particular with the essentials required by the decision just mentioned. The summons is raised by the arrestees, executed against Thomson and Ainslie, as arresters; they are called on the margin of the sum-

No 245.  
A process of multiple-poining, brought in consequence of an arrestment, preserves the arrestment from prescribing, although the arrester's interest is not produced in the multiple-poining.