

## S E C T. IV.

## English Commission of Bankrupt.

1747. November 13.

OGILVIE *against* The other CREDITORS of ABERDEIN.

## No 86.

An arrester in Scotland preferred to the commissioners of bankrupt.

JOHN ABERDEIN a Scotsman, residing in England, became bankrupt, and having a commission of bankruptcy awarded against him, complied with the terms thereof. Thomas Ogilvie, one of his creditors in a debt contracted in England, entered his claim before the commissioners of bankruptcy, which was refused in respect of an arrestment he had laid on the bankrupt's effects in Scotland. Thereafter Ogilvie pursued a furthcoming on this arrestment, wherein compearance was made for the assignees of the commissioners of bankruptcy in England, who craved to be preferred, in respect the common debtor resided in England, and became bankrupt there, and as *mobilis sequuntur personam*, the preference ought to be judged by the law of England, by which all arrestments fall by the commission of bankruptcy.

On the LORD ELCHIES's report for advice, the LORDS were of opinion, ' That moveables in Scotland could only be attached by diligence issuing out of the courts of Scotland, and that therefore the preference could be judged only according to the law of Scotland ; and preferred the arrestment.

*Fol. Dic. v. 3. p. 226. Kilkerran, No 4. p. 206.*

1755. January 31.

ASSIGNEES, under the Commission of Bankrupt of CAPTAIN WILSON, competing with the CAPTAIN'S CREDITORS ARRESTERS.

## No 87.

Assignees under a commission of bankrupt in England, preferred to arresters in Scotland, on debts contracted in England, and payable there.

CAPTAIN WILSON of London, having, in February 1751, stopped payment, a commission of bankruptcy was issued against him in November following ; and, in March 1752, the bankrupt's effects were conveyed to Bradshaw and Ross, chosen assignees by the creditors. Immediately upon Captain Wilson's bankruptcy, Adam Fairholm, and others of his creditors in Scotland, used arrestments in the hands of sundry persons debtors to Captain Wilson, and raised furthcomings. The arresters brought processes of multiplepoinding, in which the assignees to Wilson's bankruptcy appeared for their interest, and insisted