

of the effects out of Scotland; Thomas Young opposed it. 'THE LORDS found, after a great debate, that before he can remove his money, he behoved to find Thomas Young caution *judicio sisti et judicatum solvi* in Scotland, for what *ex eventu* he and Scouler his conjunct should be found debtors to him.' Though in strict law, *actor sequitur forum rei*, and Young if he had ought to crave of Arnaud should pursue him in France.—But *tutius est incumbere rei quam personæ*.

Fountainball, v. 1. p. 274.

No 46.

1733. July 26.

COURTS against MILN.

AN arrestment at the market-cross of Edinburgh, pier and shore of Leith, of effects belonging to the common debtor, in the hands of an English merchant, residing at Bristol, and who had no *forum* in Scotland, was found null and inept. See APPENDIX.

Fol. Dic. v. 1. p. 330.

No 47.

1758. November 21. WILLIAM FORD Merchant in Berwick, Supplicant.

FORD, a merchant residing in Berwick, intended to apply to the Sheriff of the Merse, for a border warrant to arrest the goods of Tabor and Thomson, two merchants in London, his debtors; but was advised that the Sheriff might have a difficulty in granting this warrant, as in other cases, because Ford was himself an Englishman, and resident in England. A petition was therefore given in to the Lord Ordinary on the bills; who reported the case to the Lords.

THE COURT was unanimously of opinion, that the Lord Ordinary should grant the warrant for arrestment *jurisdictionis fundandæ causa*; and approved of this method of applying to the Court, seeing a petition to the whole Lords was unnecessary, as there was no need of intimation to the defenders.

Reporter, Lord Justice-Clerk.

W. J.

Fol. Dic. v. 3. p. 240. Fac. Col. No 136. p. 252.

No 48.

A stranger is entitled to apply to this Court by a petition to the Lord Ordinary on the bills, for a warrant to arrest *jurisdictionis fundandæ causa*.

1773. June 17.

MESSRS ASHTON, HODGSON, and Co. of London, Merchants, and their Attorney, against SARAH MACKRILL Widow, and CATHARINE MACKRILL, Daughter of the deceased John Mackrill of London, Woolstapler, and their Attorney.

THE pursuers being creditors upon certain receipts, or notes, granted to them by John Mackrill of London, which were due at the time of his death; and

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No 49.
Arrestment
*jurisdictionis
fundandæ causa*