

terms, and no person can say upon what facts the arbiters proceeded, or what was their opinion in point of law? Therefore that iniquity, supposing it relevant, could not be otherwise proved but by Ochterlony's oath.

THE LORDS found no ground for setting aside the decret-arbitral; and therefore repelled the reasons of suspension.

Beside the above points, the Lords had under consideration the proof of the alleged iniquity, which appeared to them at best extremely doubtful. For this reason, they avoided determining whether the decret-arbitral was challengeable upon the head of iniquity; but pronounced the interlocutor *super tota materia*.

Fol. Dic. v. 3. p. 214. Sel. Dec. No 68. p. 91.

1759. December 20.

JOHN CLERK, Advocate in Aberdeen, against ALEXANDER BREBNER, Merchant in Aberdeen.

BREBNER and Company, Merchants in Aberdeen, in December 1755, commissioned from Arthur Fletcher of London six hogsheads of vinegar; which were delivered to them accordingly.

Fletcher died in the end of the same month; and his sister, the wife of John Pott, obtained letters of administration from the prerogative-court of Canterbury, as executor to him; and granted a power of attorney to her husband.

In January 1756, Pott sent an account of the vinegar to Brebner, and desired payment at the usual time of six months after the furnishing.—Brebner, for himself and Company, thereupon wrote to his factor at London, 26th February 1756, in these words: 'We received per the Charles, Alexander Gordon master, the six hogsheads sent us per Fletcher; and as he is since dead, let his executors know, that we have given him credit for same, which shall be paid at the usual time of six months.'

Pott drew a bill upon Brebner and Company, payable to John Clerk, for L. 12 : 4s. Sterling, as the price of the vinegar; which was protested for non-acceptance, and a process thereupon brought before the Sheriff of Aberdeen; who decerned against Brebner, his partner having, by that time, failed.

Pleaded for Brebner, in a suspension, The process was brought before the Sheriff without the pursuer's instructing a sufficient title, as the letters of administration were at no time produced there. And, *2do*, Such letters, though they may have been sustained *ad inchoandum litem*, yet have not hitherto been found a sufficient title for the administrator to recover payment in Scotland, or to grant a valid discharge of a Scots debt.

Answered for the charger; No objection was made to Mr Pott's title in the inferior court; and therefore such objection comes now too late in the way of

No 29.

No 30.

English letters of administration equivalent to a license to pursue in Scotland.

No 30. suspension. And, *2dly*, The debt pursued for was contracted in England; the goods were there furnished, and the price was there payable, to an Englishman residing in England; and therefore a title sufficient in England ought to be sustained here. Besides, the suspender's letter of the 26th February 1756, in return to Mr Pott's, contained not only an acknowledgement of the debt, but a positive engagement to pay Fletcher's executor, which was a sufficient homologation of Mr Pott's title.

THE LORDS found the letters orderly proceeded, and expenses due; but ordained the charger to confirm before extract.

Act. *Rae.*

Alt. *Hamilton-Gordon.*

D. R.

Fac. Col. No 203. p. 364.

1783. *January 31.*

Ranking of the CREDITORS of the YORK-BUILDINGS COMPANY.

No 31.
Contracts executed according to the solemnities of the *lex loci*, are effectual in Scotland.

So early as the year 1727, the Company of Undertakers for raising Thames water in York-buildings, which had been incorporated by an act of William and Mary, was obliged to raise money upon annuities, which were secured on its landed property in England and Scotland, and, together with other real incumbrances, exhausted altogether its annual income till about the year 1777.

During this period, and for some time before, the Company had issued a variety of bonds conceived in the English form, which had been transmitted by the original creditors by indorsements, frequently blank in the name of the indorsees, and had been made at different times the foundation of processes of adjudication and other diligence against the Company's estates.

In the year 1777, an act of Parliament for selling the estates belonging to the Company was obtained, and a ranking of the creditors ensued; in which the following objections were stated by the common agent:

First, That the grounds of debt were defective in the solemnities required by the law of Scotland.

Second, That the bonds of the Company could not be transferred from one creditor to another by indorsation.

Third, That blank indorsations of these bonds fell under the statute 169 concerning blank writs.

These objections being urged against contracts, which were valid according to the law of that country where they had been entered into, were disregarded by the Court.

Reporter, *Lord Monboddo.*
Blair, Buchan-Hepburn, Elphinston.
Clerk, *Colquhoun.*

For the Common Agent, *Lord Advocate, (Dundas),*
For the Other Creditors, *Ilay Campbell, Wight.*

Fol. Dic. v. 3. p. 221. Fac. Col. No 85. p. 132.