

On the 21st February 1775, "The Lords repelled the reasons of reduction, and found expenses due."

*Act.* J. M'Laurin. *Alt.* J. Campbell. *Reporter*, Justice-Clerk.

*Diss.* Coalston, Monboddo.

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1775. February 21. MESSRS CROSS and BOGLE *against* JOHN MURE, Factor on the Estate of D. Lock.

#### ARRESTMENT.

Used in the hands of a judicial factor, appointed in consequence of a sequestration awarded pending a process of *cessio*, and prior to the Bankrupt Act, 1772, if effectual.

[*Fac. Col. VII. 41 ; Dict. 757.*]

MONBODDO. A factor who is not removable by the debtor, is not in the common case : he is just in the situation of a curator, whereas an ordinary factor is no more than the servant of his constituent.

HAILES. If you hold it necessary that arrestment shall be used in the hands of the bankrupt, not in the hands of the factor, on the subjects of the bankrupt, the only consequence will be involuntary breach of arrestment.

COALSTON. By the late Act of Parliament, the estate is *vested* in the factor ; but that is not the case *here*. The factor is not vested in the estate ; he is only an administrator. I am at a loss to distinguish this factor from any other factor.

PRESIDENT. The factor is in the legal possession of the goods by authority of the Court. In the case of *Lockwood*, the Lords sustained an arrestment in the hands of the clerk of Court for consigned money.

KAIMES. I arrest in the hands of a debtor, to hinder him to pay to the common debtor. To what purpose is it to arrest in the hands of the bankrupt who cannot pay, rather than in the hands of the factor who can ? By the late statute, the factor is *vested*, in truth and in words, a factor, like the present one in truth, though not in words.

On the 21st February 1775, "The Lords sustained the arrestment in the factor's hands ;" adhering to Lord Pitfour's interlocutor.

*Act.* A. Abercromby. *Alt.* G. Ferguson.

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