

pose of an interruption ; and, of consequence, every such action must fall under the septennial prescription ; nor can the arrestment raised in consequence of the executed summons be of any avail. An arrestment is not a document taken against the debtor ; and it is absurd to pretend, that the production of an executed summons to the clerk of the bills, at raising an arrestment, can make that summons a judicial depending process in Court : Neither is it of any consequence, that the arrestments used upon the bonds in question were founded upon by the suspenders before the arbiter. These bonds stood in the person of George M'Farlane during the whole dependence of the submission, and even some months after the decret-arbitral was pronounced ; and it was only at the close of the proceedings under the submission, that the arrestments were founded on. Even then the suspender did not claim retention of these bonds as a creditor, but simply insisted that he should be warranted against double distress, by means of these arrestments ; and accordingly the arbiter went no further than to find, that he ought to be freed of the arrestment, by its being regularly loosed before he should be obliged to pay the sums awarded. It is inconceivable, therefore, how this submission, or the proceedings upon it, to which neither M'Farlane, nor any other person in the right of these debts, was a party, can be founded on as interrupting the prescription. This was not a document taken upon the debt by the creditor, either judicial or extrajudicial. It was no demand made by him for payment ; and consequently cannot be held an interruption.

' THE LORDS found the letters orderly proceeded.' See PRESCRIPTION.

For the Charger, *David Rat.* For the Suspenders, *David Grane.* Clerk, *Ross.*
A. W. *Fol. Dic. v. 3. p. 148.* *Fac. Col. No 134. p. 313.*

1795. November 17.

Mrs JANE ANN DOUGAL, Executrix of Dr Dougal, against JOHN GORDON.

A CREDITOR holding a bond in consequence of an assignation from his debtor, *ex facie* absolute, is not obliged to re-convey it to the cedent, till he be repaid advances made by him to the latter, subsequent to the date of the assignation, although by a missive granted by him to the cedent of the same date with the assignation, he declared it to have been granted only in security of certain debts then due to him. See The particulars, No 53. p. 851.

Fac. Col. No 184. p. 439.

* * See Crockat against Ramsay, *infra*, *b. t.*

No 56.

No 57.