

1611. July 11. THOMAS WARDLAW *against* ROBERT GRAY.

No 119.

ARRESTMENT being laid, the party to whom the goods pertain, or in whose hands they are arrested, having received a copy, or ticket of the arrestment, and thereafter introritted with the goods, the arrestment not being orderly loosed, may be pursued for breaking of the arrestment, and confiscation of his goods, and punishment of his person. But, another party who had no knowledge of the arrestment, meeting therewith, may only be pursued to make the goods forthcoming.

Haddington, MS. No 2268.

1620. June 24. AITKEN *against* ANDERSON.

No 120.

THE LORDS found that an arrestment made upon goods, could not hinder the lieges to buy in public market. See A. *against* B. No 116, p. 785.

Kerse, (ARRESTMENT.) fol. 235.

1621. June 13. DUNBAR *against* HAY.

No 121.

FOUND where debts are arrested, the payer cannot be convened for break of arrestment.

Kerse, MS. (ARRESTMENT.) fol. 235.

1792. February 27. ALEXANDER GRANT *against* JOHN HILL.

No 122.

Found, that no action on the statute 1581, c. 18, lies for breach of arrestment, *ultra valorem*.

GRANT being a creditor of Alexander Rodger, to whom Hill succeeded as tenant in a farm, used arrestment against Hill, of a hay-stack which Rodger had left on the ground. Hill notwithstanding having allowed the hay to be carried off, Grant raised against him an action on the statute of 1581, concluding, in his libel, for payment of his whole debt, and for the farther application of the statute; the debt amounting to upwards of L. 700, and the value of the hay being L. 30.

Grant having obtained decree in absence, Hill brought it under review in a process of suspension, on various grounds, such as, that he was not the custodier of the hay; but what chiefly occupied the attention of the Court was the objection, that at all events Hill could not be liable *ultra valorem* of the subject arrested.

The charger insisted on the authority of the following words of Lord Stair, with respect to *breakers of arrestment*, 'That the party injured shall be first paid