

was, being called to make him furthcoming, the debtor dying bastard; the creditor summoned of new the haver of the horse in his hands, to make the horse furthcoming, and the King's Treasurer and Advocate for their interest: Which order the Lords found sufficient, because he had affected the horse by arrestment before the bastard's death.

*Fol. Dic. v. 1. p. 58. Haddington, No 2179.*

No 104.

1616. February 18.

JAMES STIRLING *against* LADY AULDBARR'S TENANTS.

FOUND necessary to transfer a summons to make arrested farms furthcoming, in respect of the decease of the party summoned for his interest, notwithstanding litifcontestation was made against the principal party called, and all farther probation renounced. But yet they ordained the tenants, who were called for the farms arrested, to compear to give their oaths, and assigned a day for that effect, and declared they would not give sentence till the process was transferred.

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

No 105.  
Found necessary to transfer a summons of furthcoming on account of the party's death, although litifcontestation had been made during his life, and the term for proving circumduced.

1624. January 14. LA. LANGTOUN *against* SIR JAMES DURHAM.

In summons of arrested goods, where litifcontestation is made, if the debtor who is called for his interest decease; THE LORDS find the process not transferable.

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

No 106.

1624. February 26.

SPITTLE *against* SCOTT.

MR ALEXANDER SPITTLE having registrate a bond of 2000 marks, owing by Scott of Dryop, younger, to him, arrested certain goods and gear belonging to him in his father's hands, old Dryop. Afterwards, the young man being dead, he charged the father to make the arrested goods furthcoming, which was not sustained until he first transferred the decret in his heir's person.

*Fol. Dic. v. 1. p. 58. Spottiswood, (TRANSFERENCE.) p. 340.*

No 107.  
Even where the debt was liquid, transference required. See Somervel against Herriot, No 110. p. 781.

1623. July 8. THOMSON *against* EDGAR.

In a pursuit by one Thomson *contra* Edgar, for making arrested goods furthcoming as belonging to umquhile Clement Edgar, debtor to Thomson the pur-

No 108.  
Found necessary to have