

Duplied, It can make no difference, that the debts in this case were contracted in Scotland, and payable there; because it is a general maxim, That *mobilia non habent sequelam, sed sequuntur personam*; which must apply with greater force to debts which are considered as *jure incorporalia*; and therefore this competition must be governed by the statutes of England, where John Dunlop resided when the commission was taken out against him.

No 88.

'THE LORDS preferred the arrestments in the hands of the company's debtors resident in Scotland, preceding the 2d August 1755, to the legal assignees.'

Reporter, *Lord Minto*. For the Arresters, *Miller, Ferguson*. Alt. *Macintosh*.
W. J. *Fol. Dic. v. 3. p. 226.* *Fac. Col. No 179. p. 319.*

1762. July 2. & 1764. December 20.

THOROLD, &c. Assignees of THOMSON and TABOR, *against* FORREST and SINCLAIR

No 89.

THE LORDS found, That the assignees under a commission of bankruptcy in England had a title to compare and compete in the Court of Session; but that the proceedings under the commission did not bar the creditors of the bankrupt, whether their debts were contracted in England or Scotland, to affect their debtors effects situated in Scotland, or debts due to them by persons there residing, by legal diligence; and also found, that such of the creditors-arresters against whose diligence no objections were made, were preferable to the assignees.

Fol. Dic. v. 3. p. 226. *Fac. Col.*

* * The report of this case, No 81. p. 753, taken from the Faculty Collection, where it is erroneously dated 5th March 1767, does not state, with sufficient precision, all the circumstances, and what was actually done by the Court. The principle which there seems to have been adopted, has been, in the late case of Read against Strothers, (1st July 1803), entirely passed from, and the assignees under a commission of bankrupt, have been preferred. In the report of this last mentioned case, to be given at large in the Appendix to this Title, the errors in the case of Thorold, and in that of Pewtress immediately following, will be particularly pointed out.

1768. July 14. PEWTRESS and ROBERTS *against* THOROLD, &c.

No 90.

DURING the dependence of the competition between Thorold, &c. and Forrest and Sinclair, No 89. p. 4561, certain arrestments having been used in the hands of William Cuming banker in Edinburgh, in order to attach sums which he had recovered belonging to the bankrupts, in consequence of bills drawn or indorsed by them in his favour, the LORDS preferred the arresters.

Fol. Dic. v. 3. p. 226. *Fac. Col.*

* * See This case No 82. p. 756.