

LETTERS OF SUPPLEMENT.

1589. June.

SEATON of Pittedie *against* JAMES KINGHORN and the LAIRD of St Monans:

SEATON of Pittedie having pursued James Kinghorn and the Laird of St Monans before the Bailie of the regality of Dunfermline, to hear and see an instrument transumed, obtained decret, and thereupon charged them to deliver to him a reversion sealed, which they were bound to do by the instrument. The Laird of St Monans suspended, and *alleged*, That the transumpt ought not to have place, because the decret of transuming was given a *non suo judice*, he not being subject to the bailie's jurisdiction. *Answered*, That the bailie was judge competent to the notary and the party that was summoned by letters of the Lords of Session to compear before him, and an evident might be transumed before any judge ordinary. THE LORDS sustained the decret of transumpt, though he was not judge ordinary, or competent to the defender.

No 1.
An inferior Judge was found competent to a transumpt, altho' the party called as defender was not within his jurisdiction, being cited by letters of supplement from the Lords.

Eol. Dic. v. 1. p. 548. Spottiswood, (TRANSUMPTS.) p. 343.

*** Colvil reports this case.

SEATON of Pittedie pursued one having transumed an instrument before the bailie of the regality of Dunfermline; and to that effect summoned James Kinghorn and the Laird of St Monans, who was bound in the instrument to give a reversion sealed to the pursuer, to hear and see the said instrument transumed. It was *alleged* by St Monans, who was minor, that the transumpt could not to have place, because the bailie of the regality of Dunfermline was not his judge competent, and so the decret of transuming was given a *non suo judice*. *Answered*, that the bailie was judge competent to the notary, and the party was summoned by letters of the Lords of Session to compear before the said bai-

No 1. lie; and an evident might ay be transumed before any judge ordinary. The LORDS found the bailie might have transumed, although he was not judge competent, or ordinary judge to the defender.

Colvil, MS. p. 443.

1665. *January 20.* LORD LOURIE *against* GOVAN.

No 2.

IN a process for making arrested sums forthcoming, two arresters, viz. my Lord Lourie, and another competing; it was *alleged* for Lourie, That the first arrestment is null, because the party was out of the country when it was only made at his dwelling-house, which it is not legal; seeing all summonses, intimations, premonitions, requisitions, and all denunciations against parties out of the country, must be by letters of supplement from the Lords, executed at the market-cross of Edinburgh, and pier and shore of Leith; so must arrestments against these who are out of the country be there.

“ Which the LORDS found relevant, and preferred the second arrestment personal.”

Fol. Dic. v. 1. p. 547. Stair, v. 1. p. 253.

* * * Newbyth reports this case :

IN a summons of multiple-poinding, raised at the instance of John Govan against the Creditors of Hary Hope, who had arrested certain sums of money alleged due by John Govan to the said Hary, there was compearance made for the Lord Lourie, one of Hope's creditors, and also for William Cunningham, elder, merchant in Edinburgh, who had both arrested the said sum upon the 10th of March 1664, in the hands of John Govan, being out of the country, and left a copy at his dwelling-house; and the Lord Lourie, upon the 16th of March thereafter, he was returned personally apprehended; the debate being anent the competition, in regard it was asked by my Lord Lourie, that Cunningham's arrestment was null, being no letters of supplement raised, and Govan, in whose hands the arrestment being used, was out of the country; the LORDS found the arrestment at Cunningham's instance null for want of letters of supplement, which they found should have been executed at the market-cross of Edinburgh, pier and shore of Leith; and therefore preferred the Lord Lourie, notwithstanding he was posterior in diligence.

Newbyth, MS. p. 19.