

An arrestor upon a Depending action, And an arrestor for a Debt where of the term of payment is come is preferred to one who arrested before Current Commence 29 July 1670 Charter contra Nielson 17 July 1671 by Lord Pit medden contra Paterson. The Reason is, because an arrestment upon a Dependence or before the term of payment, is effectual only to hinder the Debtor to Dispose his Subjects, and cannot compete with a posterior arrestor upon a Decree or for a Debt after the term of payment, who having power sent or ready Execution for the covering his money, is not obliged to stop his Diligence till others come equal with him in getting their Debts constituted. But arrestments upon Registered Bonds; the preferred to posterior arrestments upon Registered Bonds; the grounds of the former being constituted by Decree before the Competition which stands in Pari Causa with the latter Execution with the Grounds of the latter arrestments 3 July 1702 In memorie of Megeyish contra Lord Presion Ball and other Creditors of Balcanhalie 14 June 1710 Captain Brodie contra Mclellan and others. 2 January 1728 Walkins contra With and Arrestment upon Debts where of the term of payment is come at the using arrestment, were preferred to posterior Arrestors for Debts where of the term of payment was then expired; In regard the term of payment of the Debts due to the first arrestors were paid at the time of the Competition 2 January 1728 Walkins contra With. A town officer's Execution of arrestment by verbal warrant of a Baillie want Witnesses, conform to the Customs of the place, was postponed a more secure posterior arrestment in presence of witnesses where of the Execution bore Witnesses Inferred; the such executions of town officers were used in the place 9 July 1670 Warroch contra Brown. An Arrestor having pursued a for coming, and the Debtor ^{having} after an act was therein extracted called for the more security the Debtors ~~Other~~ Creditors in a Multiple pointing; the pursuer was refused preference for his Expenses of Raising the Summons of fourth coming and Extracting the act and other Diligences in order to make the subject effectual. Albeit it was alleged for him, that his expenses were in rem verum and profitable to the party that should be preferred; and that in Sales and other ^{com}

Common Concerns of Creditors, money expended to make the subject effectual, as to be paid off the whole head 29 July 1708 Rollmainers contra Lady Blantyre and others.

As a Decree of Apprising or adjudication doth not hinder the obtainer to use other Diligence for his more effectual payment, unless he possess by virtue thereof all the legal exerts: so an Arrestor may, after obtaining a Decree of fourth coming, use other kind of Diligence for recovering his money. But if in a Competition with other Creditors, he be preferred to them upon one Diligence, he must part from the other in their favour 3 July 1671

Chapter 9.
Of Pointing.

Pointing is the Distraint of any Movable goods or immovability of Land, for his Debts. It was anciently used by the Kings of France, which is the same that signification was by the Law of England. And as distress according to the Statute 18 Ed. 1. part 2 lib. 2 Chap. 6 Sect 136 is termed Distraint five in quibus, because felle Distraint are put into a small piece or Inclusion called a pound: so perhaps by the same reason felle the pedigree of our word pointing from pound, which in our Law is termed a pound felle.

Pointing must be executed upon a day of the week, and on the Lord's day 9 Feb. 1622 Morlaner contra Serinzeau or upon any solemn day appointed in Church or State for public humiliation or mourning their lib. 4 tit. 47 § 27 are full and punishable. It must also be executed with up sun 1 Feb. 1623 L. Harkerion contra Lucie and Grievous Spotswood pra. lib. Deforcement Inference inst lib. 3 tit. 6 § 12. That it must begin after Sun rising before it set and end during the day light 11 Feb. 1675 Douglas contra Faulkner. The change of pointing may be given in the night time 11 Feb. 1674. McCulloch contra Gordon, and pointing may be executed under Cloud and silence of night. The Reason of the Difference is, because pointing is a sentence that Requires formam Judicij, and no Court can be kept under silence of night. Again, in the Execution of pointing the goods are to be appraised and more persons may be concerned than he against whom it is used, who may appear and make faith that the goods to be pointed are