

if another case where in providing for vi manū is allowed in Scotland, viz. those whose goods are stolen or Robbed by notorious thieves and broken Men of Blans are allowed to seize and keep at their own hand the goods of the offender or any other of the same Chan, till count and Reception Act 16. Par. 10 J. C. 5^o Lawyers are of opinion, that a Creditor may at his own hand apprehend the Debtor by force, whom he finds actually flying, ~~the~~ in this case being a sort of Crimer But that a Debtor whose debt is not so constituted by Contract, cannot be thus apprehended without a Judicial Warrant, which Bill a Judge cannot be had to Interpose his Authority, or the Debtor be running away with the Creditors Money

It hath been debated in several cases whether a Debtor may by force Impower his Creditor to Enter at his own hand without any previous Intimation for Instance, if a Man oblige himself that he shall do no deed Contrary to the Right he had made, or if he do, it shall be null without Declarator; whether a Declarator be necessary for nulling such a deed. It is answered a Declarator is necessary in this case, and if taken man oblige himself to remove at such a time, and if he remove not, it shall be lawful for the creditor of the tack to enter by his own Authority, tho' by the Civil Law the Debtor may enter without the Authority of a Judge l. Pen. C. 20 Pign. Act. Yet after Clarifying of the term a Declarator is necessary without because then the tackman has the Benefit of tack Relocation, which gives him a new Right. McLenzie Greatist of Achnon Chap. 1

Sub 2.
In what cases persons may right them selves sum maly, by order of a Judge.
Persons Right them selves summarly by order of a Judge before a Cause is tried at Law in several cases as
1^o Caption is granted by the lords of Session against Debtors in Meditative fugis, sumly suspected of a Fraud

Sudden fraudulent design to run the Country with their effects. Which Warrant for Summary Caption is obtained upon a petition to the lords at the last taker of the Debtors Creditors, setting forth the Reason why they suspect him to be about to fly: as that he was practising wth his goods, or absconding himself, or else saying any thing that he was at home when his creditors enquired for him. So the Lords granted a Summary Warrant to Mr. George for Apprehending a Merchant who never he could be found, for absconding his goods: with the Recommendation to the Duke of Hamilton, keeper of the Abbey of Holy Rood house to Expell him if he should fly. Upon a writ from his Creditors they representing that he had done fully and Irrevocably Broken with the price of goods, in such hand that he had put in Meditative fugis and was flying in some Sanctuary of the Abbey or a house to go off the Kingdom so the Act 6. 1664. Seculor Act of Wapscapship l. 2. Summary Warrant of this Nature are granted not only for pure and simple debt, but also for Judicial Debt, and these Warrants of the term of payment is to bring thence they be very soon recoverable. But are not allowed to Creditors who Value a Creditor's person after he was suspected to be upon the King: for they have themselves to plain who give Credit to one in that condition. However a Summary Caption will not be used so much as to some Creditors as Debtors Vel qua si Debtors to the suspected person even a pards post, as by his sailing or remaining them, or committing what upon them. By the Civil Law a fugitive may be summarly apprehended by order of any Judge, the other ways incompetent and the Order may be issued out even in the time of vacation and upon Holy days.

But with us no Inferior Judge, except the Admiral and Magistrates of Burghs in the cases above mentioned, and far less an Inferior Justice, can grant such a Warrant for apprehending and detaining Debtors suspected of a Design to Run away full handed. For a small ment of a hand ruyt goods upon the precept of an Inferior Judge, was found null because executed without the Jurisdiction of that Judge, tho' the person in whose hands the goods were was laid on the person in that Jurisdiction being he was not there at the time 5 Decemb. 1671. Miller contra Crawford, Oldham and L. Boyley 20 20000.
It is according to the Doctors of the Law, allowing a hand shall can be thus summarly apprehended from the presumption partly that the Creditors sufficiently declared their by partly that the Debtor would not abandon it. But there is no Reason that Creditors having either but a small

The words of the Act are, that if any person shall be suspected of a Fraudulent design to run the Country with their effects, the Lords may grant a Summary Warrant to any Justice of the Peace, or any other Justice, to apprehend such person, and to detain him until he be brought to the Court of Session, or until he be discharged by the Court of Session.