

repelled the reasons of suspension, and found the suspender liable to personal execution, notwithstanding of the consigning a disposition of his estate.

No 94.

*Fol. Dic. v. 2. p. 173. Sir Pat. Home, MS. v. 2. No 817.*

1693. January 20.

——— against GRAHAM.

No 95.

BETWIXT ——— and George Graham merchant, who since his *cessio bonorum* granted a bond of corroboration to one of his former creditors contained in the *cessio*; and he having incarcerated him, he craves to be liberated on his former decret of *bonorum quoad* him. THE LORDS found his granting this new bond, (though only in corroboration) was a passing from his privilege of *cessio bonorum quoad* him; else what could the clause of registration for execution signify? and that he behoved to take a new decret.

*Fol. Dic. v. 2. p. 172. Fountainball, v. 1. p. 549.*

1694. February 13.

JAMES WATSON, Litster in the Canongate, against His CREDITORS.

No 96.

His reason of suspension was, that he was willing to put his whole creditors in possession of his land, and produced a disposition thereto in their favours, with exception only of his work-house and looms, and for which he was content to pay mail to them. THE LORDS being dissatisfied with these general suspensions, were once for referring him to pursue a *bonorum*, but afterwards allowed the Ordinary to pass suspension against all such creditors as were in possession (for they thought it hard that they should both have his land and his person;) but to refuse the bill of suspension as to those who were not in possession, or who were content to renounce the benefit they might have by the donatar of his escheat's back-bond to the Exchequer, for they could not retain both.

*Fol. Dic. v. 2. p. 173. Fountainball, v. 1. p. 608.*

1694. December 13.

DARLEITH, &amp;c. against BRUCE of Kinnaird.

No 97.

His reason of suspension was, to be free of personal execution, because his estate was sequestrated for the behoof of his creditors; and they being in possession, cannot trouble his person. THE LORDS repelled the reason, unless they would say, that the creditor-charger was in possession and payment of his whole annualrents; though some thought this was not enough, unless he was also paid of his principal sum. Yet the act 1672, anent adjudications, frees the debtor's person, if he has put his creditors in possession, and delivered a pro-