

1737. February 16. CREDITORS of JOSEPH CAVE.

No. 9.

JOSEPH CAVE broke January 21, 1735, after purchasing and malting barley from sundry persons; and in a competition for that barley, and reduction of the sale *ex capite fraudis*, it was found, *1mo*, That the specification by malting did not bar the reduction. *2do*, Found not relevant to reduce the bargain of sale, which was in October 1734, that by his books it appears that he was then insolvent; in respect that he continued his trade, and his insolvency was not discovered till January 21, 1735.—But upon a reclaiming bill, the Lords thought that it was only the delivery that completed the sale, which was at different times, and found the sale void as to any barley upon or after January 18, three days before the open bankruptcy. (See DICT. No. 41, p. 4936.)

---

1737. February 24. LORD KILKERRAN *against* COWPER.

No. 10.

A BANKRUPT may be so in terms of the act 1696, whatever objections may lye against the execution of horning. (See DICT. No. 171. p. 1091.)

---

1737. June 29. YAXLY DAVIDSON *against* ANNA BROWN.

No. 11.

IF one, after he becomes insolvent, leaves the country, and is under diligence, he is notour bankrupt in the sense of the act 1696; and whatever be the pretence, the law will presume that he fled from diligence, even though it be not then actually raised. (See DICT. No. 172. p. 1092.)

---

1738. January 6. CREDITORS of EYEMOUTH.

No. 12.

DISPOSITIONS by bankrupts to their creditors reducible *in toto*, if any one be omitted, or his debt short stated. *Vide inter eosdem voce* PROCESS.