cutor bearing the *ratio decidendi* that the disposition was to the whole creditors, the consequence was, that either no creditor could be ranked, but those contained in the disposition, and for the sums mentioned in it, and that was neither just in itself, nor in the Lords' power, or if other creditors were ranked, the interlocutor 1726 behoved to fall to the ground as proceeding on an error in fact.

No. 13. 1738, Jan. 10. CREDITORS of PATERSON, *Competing*.

(See Note of No. 5, *voce* COMPETITION.)

No. 14. 1739, Jan. 18. CHALMERS *against* M'ALLA, &c.

AN assignation of moveables and household furniture being granted 16th May 1736, by Charles Stuart, who became bankrupt in the beginning of August, when he assigned to the same creditors his tack of the house in security, which right to the tack was reduced by the Ordinary in the Outer-House on the act 1696; but Chalmers having arrested on the 7th of August, and quarrelled the assignation to the plenishing as simulate *retenta possessione*, a proof was allowed; and at advising, it appeared that the possession was retained by the bankrupt till the 8th of August, when M'Alla, the disponee, let both house and furniture to Sir John Eveline, as tenant, which was after Stuart's bankruptcy, but before the arrestment. The question was, Whether the disposition of moveables being completed before the arrestment, by actual possession, the disponee ought not to be preferred, since his disposition did not fall within the act 1696? The Lords, however, reduced the disposition, which they looked on as fraudulent;—and it is said the same thing was decided betwixt the Creditors of Commissioner Whitehall and Mr Colvill, (or Colquett.)—18th January The Lords adhered without answers.—(January 6.)

No. 15. 1739, Feb. 1. CREDITORS of MATHIESON *against* CARLILE.

THE Lords sustained the sales by the trustees, notwithstanding of prior inhibitions at Carlile's instance, in respect Carlile qualified no damages by the sales being under the value, as they had before found in the case of Creditors of Halgreen.

No. 16. 1740, Nov. 7. KIRKLAND *against* MILLER.

WE agreed that this being a disposition *omnium bonorum* between a son and father would not be good against creditors, at least that they must come in *pari passu*; but we differed whether the bond of corroboration *in grœmio* of that disposition be reducible, though the father had as summary diligence upon the bonds corroborated if he had used it, and though such a bond without a disposition would be reducible;—but it carried not, by a great majority.

No. 17. 1743, Feb. 9. CREDITORS of HAMILTON *against* HENRY.

WE had appointed a hearing in presence upon two points in this case, Whether a person being once notour bankrupt in terms of the act 1696, if the debt in the caption on which he was imprisoned be paid, and the caption discharged, and he at liberty, he still