

continues notour bankrupt in the construction of that act, provided he still continues insolvent, or if it is necessary that he also continue under diligence with the other alternatives of the statute? *2dly*, Whether securities granted by such bankrupt for payment of other peoples' debts, as well as for payment of his own debts, are reducible by this act? Upon the first point, the Lords by a great majority, found that the debt and caption being discharged before the transaction quarrelled, it fell not under the act 1696; wherein the President, Arniston, Royston, and Kilkerran were clear of that opinion, which I own I was not. They also found, that the giving security for payment of another person's debts did not fall under the act.

No. 18. 1743, June 17. ROBERT FORREST *against* MARGARET LAING.

A BANKRUPT making over his estate to trustees for his creditors, who sold the estate, and made the creditors, on receiving their proportions, to make over their debts to the purchaser, with absolute warrandice *quoad* the sum received, and from fact and deed *quoad ultra*, but not to affect the debtor's person, or other effects;—the Lords found, that after that assignation, the original creditor had no action against the debtor for the debt.

No. 19. 1746, June 20. MARSHALL *against* YEAMAN and SPENCE.

YEAMAN and Spence, Scotsmen, merchants in London, gave promissory-notes for L.78 to Thorburn, also a Scotsman, but then in London, and which notes were afterwards indorsed to Marshall.—A statute of bankruptcy went out against Yeaman and Spence, wherewith they complied; but neither Thorburn nor Marshall compeared before the Commissioners, nor got any share. Now Marshall sues them, and they plead the statute of bankruptcy, and their having complied with the conditions.—Dun sustained the defence;—and this day we adhered without a vote,—but Tinwald doubted.

No. 20. 1746, June 20. ALEXANDER CHRISTIE *against* JOHN SPENCE.

THIS case came before me, and being upon the same point of law, (as above,) I took it to report, and was allowed to do it when the former question was under deliberation. Straiton, a Scotsman in London, became debtor to Christie in Montrose, merchant, in L.281, as the balance of an account, arising partly from bills drawn by Straiton on Christie, but chiefly from cargoes of linen bought by Christie on commission from London, and sent to Straiton to be disposed of for their joint account, and of which Christie got the prime cost to pay of Straiton's half and his own, a commission of bankruptcy having gone out against Straiton in May 1744. He duly acquainted Christie, and sent him his account-current ascertaining his balance to the end, that he might claim and draw his share, which Christie neglected, but took a decret in absence against Straiton in this Court in July 1744. Straiton complied with the statute, and got the Chancellor's certificate, and began again to trade. Christie arrests here some of his new acquired effects, and pursues forthcoming; to prevent which Straiton drew bills on his debtors, payable to John Spence, but for his own behoof, which Spence owned, and competed on these bills in the forthcoming.