

1743. *February 9.*CREDITORS of AGNES HAMILTON of Rachan *against* HENRY.

No. 17.

THOUGH a person be bankrupt in terms of the act 1696, that is, be not only insolvent but in prison upon a caption, yet if the debt in the caption be afterwards paid, and he liberated; found, that he does not remain notour bankrupt in the sense of that act, though he be still insolvent. *2dly*, Found That one who is notour bankrupt in terms of the act 1696, though he cannot lawfully prefer one of his own creditors to another by making payment or granting security, yet he may pay or secure another person's creditors. (See DICT. No. 173. p. 1092.)

1743. *June 17.* ROBERT FORREST *against* MARGARET LAING.

No. 18.

A BANKRUPT having disposed his estate to trustees for his creditors, who sold it, a creditor, who on getting his dividend from the purchaser, made over his debts with absolute warrandice for the sum received, and only from fact and deed *quoad ultra*, but not to affect the debtor's person or other effects. That creditor has no action against the bankrupt for the residue of his debt.

1746. *June 20.* MARSHALL *against* YEAMAN and SPENCE.

No. 19.

THE statute of bankruptcy having gone out against two Scots merchants, Yeaman and Spence, wherewith they complied and got the Chancellor's certificate; and being now sued upon a note of L.78 granted before the commission of bankruptcy to a Scotsman, Thorburn, in London, and now indorsed to Thomas Marshall, neither of whom compeared before the Commissioners, nor got any share of the bankrupt's effects; yet the defence on their statute of bankruptcy was sustained, and the defenders assoilzied. See FOREIGN. (See DICT. No. 95. p. 4568).

1746. *June 20.*ALEXANDER CHRISTIE. *against* JOHN SPENCE, Trustee for SAMUEL STRAITON.

No. 20.

STRAITON in London was in a sort of company trade with Christie in Montrose, who upon commission was wont to send him linen to be sold at London for their joint account; and Straiton was in use to draw bills on