

ing of the *cessio bonorum* sent to her and she paid honestly; and in 1750 she commissioned a third which they sent to her; but on its arrival at Leith Andrew Forbes arrested it for a debt prior to the *cessio*; and in the process before the Admiral compearance was made for the Mains, and they insisted in a reduction of the sale of the wines upon fraud, because Mrs Rolland was bankrupt and had obtained a *cessio* before she commissioned it, of which they were ignorant, and therefore the wines were still theirs and they ought to be preferred to the arrester. The Judge-Admiral found that the fraud impeded the transmission of the property, and preferred Mains and Company. Forbes pursued reduction of the decret, and on report by Lord Kames, we repelled the reasons of reduction and assolizied.

No. 28. 1752, June 17. RANKING of BURD'S CREDITORS, &c.

IN the competition which was between the parish of Cranston, Mrs Seaton, and William Robertson, we found, that Edward Burd's disposition of his lands to Mrs Seaton 15th September 1739, and sasine following on it the same day, and which was qualified by her back-bond dated 24th September 1739, that the same was for security of certain former debts and of a bond then granted, (that is the said 24th September) for L.70 sterling then lent by Mrs Seaton, and of another bond of the same date to John Young of L.106 sterling bearing to be the balance of accounts,—could not be sustained as a security for the L.70 sterling in terms of the act 1696, in respect the debt was contracted after the date of the sasine, and was void and null as to the L.106 and other anterior debts, in respect that he was notour bankrupt in terms of the said act within 60 days.

No. 29. 1752, June 26. EARL of SELKIRK, &c. *against* CREDITORS of LIDDERDALE.

IN a ranking and sale where the estate was more than exhausted by real debts, the last preferable at last discovered a defect in the bankrupts own titles or infestment which would void all the infestments of the creditors as *a non habente*, upon which they entered into a compromise. They completed the bankrupts titles to make them accresce. They dropped the process, and sold the lands upon a commission from him. Now two personal creditors who had not compeared in the process adjudged and wakened it, and objected to the real creditors that their infestments were null till they completed the common debtors titles, which ought to be reduced as done after his bankruptcy, and after the process of ranking and sale; but Drummore repelled the objection, and this day we adhered.

No. 30. 1753, Feb. 6. CHATTO'S CASE.

CHATTO being accused of forging a writing as granted by the last Duke of Roxburgh in favours in general of the feuars of Kelso, which does not now appear, and which Chatto on his examination said that he burned,—the pursuer's petition and complaint being answered, the pursuer craved a diligence for proving. Lockhart alleged, that as the writing was not in Court, we could not proceed to try the forgery, which he said never was done except in Captain Barclay's case in 1669 mentioned by Sir George M'Kenzie, for that there