1789.

WM. and JAMES DOUGLAS, . . . *Appellants;*
SIR G. COLEBROOKE & Co. . . *Respondents.*

SCOTT
v.
CREDITORS OF
SETON.

This case is reported in Mor. p. 1605, 18th July 1780, and is stated by Professor Bell (Com. vol. i. p. 416, n. 2.) to have been affirmed on appeal; but no appeal case has been found, and no trace of it in the Journals of the House of Lords.

[M. 13,371.]

WALTER SCOTT, ... *Appellant;*
CREDITORS of HUGH SETON, . . *Respondents.*

House of Lords, 7th April 1789.

JUDICIAL SALE—HERITABLE DEBTS, EXTINCTION OF.—Held that the debts affecting a bankrupt estate, sold at a judicial sale, are, upon payment of the price, extinguished to every effect except that of securing the purchaser.

The bankrupt estate of Appine having been purchased at a judicial sale by Mr. Seton, on the creditors receiving payment out of the price, conveyances of their debts were made over in trust, for the behoof of Mr. Seton, to the appellant Mr. Scott, his agent and man of business. Mr. Scott thereafter laid out considerable sums of money on Mr. Seton's account; and for his security of those sums Mr. Seton executed deeds, by which he consented and declared, that Mr. Scott should continue vested with the rights to the Appine debts until those due to himself were paid. Alexander Farquharson, the heir of the cautioner for the price of the estate, then obtained from Mr. Scott a disposition to the Appine debts, for the sole purpose of securing his relief as to the cautionary obligation.

In this situation, Mr. Seton became bankrupt, and, in a ranking and sale brought by his creditors, Mr. Scott claimed a preference over the other creditors, on the ground that there was no *ipso jure* extinction of debts affecting an estate, and that the act 1695, framed for the benefit of purchasers at a judicial sale, could not be construed to limit his rights at common law.

July 10, 1788. On report to the Court, they held, that the debts affecting a bankrupt estate conveyed to the purchaser at a judicial sale, are extinguished to every other effect except that of securing the purchaser.

On appeal to the House of Lords, this judgment was affirmed.

For Appellant, *J. Abercromby.*
For Respondents, *J. Clerk.*