

No. 15. 1745, July 16. CREDITORS of MR MURRAY *against* MISS MURRAY.

THE Lords sustained the reasons of reduction on the 1621, if it shall appear that Mr Murray was insolvent at the date of the contract of marriage. 18th June 1746 Adhered by President's casting vote.

No. 16. 1747, June 5. CREDITORS of CORDINERS of CANONGATE *against* THOMAS GRANT.

AFTER these cordiners were notour bankrupts, though not in the terms of the act 1696, they disposed to trustees for behoof of all their creditors *nominatim* their whole effects real and personal, and by the disposition the creditors renounced any claim to future quarterly payments or new upsets, and any further action against the Corporation, and the trustees were not liable in omissions, but after two years might be charged by the creditors. This disposition was next day intimated to their tenants, and some days after Thomas Grant, who would not accede to this settlement, arrested, and a competition ensued. Their intimation was prior in time and therefore preferable, and the disposition was not reducible on the act 1696 or 1721, for there neither was nor could be horning at Thomas Grant's instance, whose term of payment was more than two months after his arrestment;—but he insisted that the disposition being by notour bankrupts it was reducible at common law; 2dly, That no creditor could be obliged to accept of the conditions of renouncing the quarterly payments, upsets, and future acquisitions, nor to free the trustees of omissions. Answered: A reduction at common law is only to the effect of bringing in the creditors *pari passu*, and therefore a disposition to them all cannot be reduced: There is no fraud, and many decisions were quoted, particularly one in 1743, Snodgrass against The Creditors of Beatt, which I had forgot, but wherein Kilkerran was very particular:—To the second, the quarterly payments, (which were 7s. per quarter) were only charity for maintenance of their poor, and without such a transaction there could be no new upsets nor future acquisitions, but the Corporation must die out,—and the trustee may now be changed at the creditors pleasure. Replied: A debtor notoriously bankrupt cannot prejudice diligence either done or to be done by any of his creditors, and quoted also some decisions. The Lords pretty unanimously sustained the disposition, and repelled the objection to it, *me referente*.

No. 17. 1747. Nov. 26, Dec. 9. WILLIAM TAYLOR *against* LORD BRACO.

THE question was, Whether a disposition by an heir or an apparent-heir *intra annum* is upon 24th act 1661 void and null in competition with a creditor of the defunct's though he has not done diligence within the three years? The Lords unanimously found the disposition void and null, though no diligence was done within the three years, agreeably to a decision in Harcarse subjoined to decision 144. December 9th, Adhered and refused a reclaiming bill as to that point. (*Vide* No. 21. *voce* WRIT.)

No. 18. 1748, June 11, 22. BOWACK *against* CROLL.

ONE Beattie having in December 1743 assigned his tack from Mr Gordon of Troup to one Bowack of a farm then possessed by Croll, who was married on Beattie's wife's sister;