

1777. *March 7.* CREDITORS of JOHN BLACKLAW *against* HIM.

JOHN Blacklaw, a tea merchant in Edinburgh, retired to the Abbey as a bankrupt, and afterwards petitioned the Court for a sequestration of his personal estate on the late statute; which he obtained, and a factor was named. It appearing to the Creditors that he had purchased teas, since October last, to the amount of L.900 sterling, while he delivered up only, of tea and effects, to the extent of L.400, and that he was seen possessed of bank notes, gold, watches, and other articles of value, presented a written petition, praying the Lords to grant warrant for bringing him from the Sanctuary, to be examined in presence. The Lords granted warrant accordingly. In his examination it appeared that he had lodged considerable quantities of the tea in different places, which he was exceedingly unwilling to discover,—as he insinuated, for fear of their being seized, and the people, in whose houses they were, brought to trouble. He named, however, some; and, in a word, behaved so, that the Lords committed him to the tolbooth for further examination against the next day; and they ordained him to be kept in close custody, and no person to have access to him, except the lawyer and agent for the Creditors, and certain other lawyers whom the Court recommended to give him advice. The Creditors remaining unsatisfied, (11th March 1777,) they presented a petition to the Court, with a signed condescendence of facts,—which they prayed the Court to find relevant to support a charge of fraud against him; and to allow a proof thereof, and of any other facts which might come to their knowledge, and all circumstances relative thereto; and in the meantime, that they would grant warrant for his incarceration in the tolbooth of Edinburgh, therein to remain till liberated in due course of law. The Lords pronounced this interlocutor:—“Grant warrant for serving this petition, with the condescendence annexed thereto, upon the within mentioned John Blacklaw, by delivering to him, personally, a full copy of said petition and condescendence, and this deliverance thereon; and appoint him to give in answers thereto, into the boxes, on the 26th day of April next; and allow the petitioners to give in replies against the 12th of June next; and the Lords grant warrant to the macers of Court, or any of them, to incarcerate the said John Blacklaw in the tolbooth of Edinburgh, therein to remain until he shall be liberated in due course of law;—and grant warrant to the Magistrates.”

John Blacklaw immediately petitioned to be admitted to bail; which the Lords granted.

Answers having been given in to the petition, with replies and duplies, the cause was enrolled in the summar roll for advising, when it occurred to the clerk that there was a material defect in the proceedings in point of form; for, that his Majesty's advocate, as *calumniator publicus*, was no party to the complaint, which inferred the pains of fraudulent bankruptcy, in terms of the late bankrupt statute. The defect was the more material, that when a similar one had been observed in a former case, *Fac. Coll. No.* , it was found that it was not suppleable, and that the advocate's after concurrence would not draw back or rehabilitate it.

The Lords ordered the cause to be struck out of the roll, in order that the

complainers might consider of this observation. The consequence was, that the complaint was not more insisted in.

BASTARD.

1773. *December 16.* KIDSTON *against* SMITH.

THE Lords agreed, that the custody of a bastard child belongs, by law, to the mother; and that a decreet of the Justices of the Peace of Stirlingshire, taking a bastard child, a daughter, from the mother, and putting her under the custody of the father, was erroneous. See 11 *New Coll.* p. 106; 4 *New Coll.* p. 19.

Mr Erskine observes, that it does not seem fixed how long parents are bound to aliment their natural children. In the case of a gentleman, the obligation was found to continue till the child was fourteen years of age. See 2 *New Coll.* p. 97; 4 *New Coll.* p. 19; *Kilk.* p. 22.

1773. *January 25.* MARION CALDWALL *against* WILLIAM STEWART.

IN a process, Marion Caldwell against William Stewart, for aliment of a child, a son, of whom Stewart was found to be the father,—at least was bound to aliment, as having had correspondence with the mother; Lord Auchinleck found, (25th January 1773,) that he was so bound, reserving relief to him against his *correi*. *Secundo*, His Lordship found, that, in the case of a bastard child, the father is bound to aliment, not the mother. *Tertio*, That the mother is entitled to the custody, especially where, as in this case, the father denied his being father. *Quarto*, He modified the aliment to L.1 per quarter; and, *Quinto*, fixed the continuance of it till the child should attain the age of 12 years complete. Upon petition and answers the Lords adhered.

William Stewart was a small feuar near Beith. The woman was of equal rank. Both of them in very moderate circumstances.

1778. *March 5.* JANET SCOTT *against* WILLIAM OLIVER.

JANET Scott having pursued William Oliver, before the Justices of the Peace of Roxburghshire, for aliment of a bastard child, the Justices decerned. Oliver suspended; and Lord Stonefield, having turned the decreet into a libel, decerned against Oliver for a yearly aliment of L.4 sterling, payable quarterly,