

No. 7. 1736, July 9. YOUNG *against* SMITH.

THE question was argued, whether a reduction on the act 1696 be competent for repeating the part of the price paid to the creditors; but upon a division 15th June, the Lords adhered. For the interlocutor, were Royston, Newhall, Justice-Clerk, Monzie, Easdale, Murkle, Leven. Against it were Haining, Drummore, Strichen, Tinwald, Coupar.—9th July The Lords adhered.

No. 8. 1737, Feb. 1. LORD BELHAVEN, *Supplicant*.

THE Lords, in respect of the act 1696 anent notour bankrupts, refused the Lord Belhaven's petition without answers, for they thought the petitioner's Court\* was not by that act so much as competent to judge of this crime of fraudulent bankruptcy, and far less can he repledge; and at 12 o'clock they proceeded to the examination of the prisoner.

## No. 9. 1737, Feb. 16. CREDITORS of CAVE.

THE Lords adhered to the interlocutor of the 15th as to all victual delivered before the 14th January 1735; 2dly, They adhered as to all delivered before the 18th; 3dly, They altered and sustained the reason of reduction as to all delivered on or after the 18th of January 1735.—16th February 1737, The Lords adhered.

No. 10. 1737, Feb. 24. LORD KILKERRAN *against* COWPER.

THE Lords refused and adhered unanimously, for the bankrupt was in the terms of the act 1696, whatever objection might be against the executions of the horning, since it only requires that there be a horning and caption.

No. 11. 1737, June 29. DAVIDSON *against* BROWN.

THE Lords found the deed reducible on the act 1696, and thought, that where a party is insolvent, if he goes out of the country, the law will presume that it is to shun diligence, whatever affected cause he pretends, and that though he go out of the country even before diligence.

## No. 12. 1738, Jan. 6. CREDITORS of EYEMOUTH.

THE Lords reduced the disposition, not being to the whole creditors, and preferred the creditors according to their diligence.—12th December 1733.

The Lords having on a reclaiming bill against their interlocutor, marked *supra*, 12th December 1733, remitted this cause to Lord Murkle. This day, on his report, in respect that the disposition was not to the whole creditors, nor for the whole sums due even to the creditors named in it, and that some of those omitted debts had been admitted and ranked upon the estate, therefore they found the old interlocutor in presence in 1726, and the Ordinary's interlocutor applying the same in 1737, was not a *res judicata*, and adhered to their former interlocutor, 12th December 1733, reducing the disposition. The interlocutor was almost unanimous, Dun only against it; and though they inclined much not to alter a preference settled as long ago as 1726, yet that interlo-

\* The Court of Wardenry in the Mint.