

1675. February 12. KINNIER against ———.

No 90.

THE LORDS, upon a bill given in by ——— Kinnier, who had obtained a *bonorum*, and a testificate of diverse persons of credit, that he had become insolvent upon occasion of loss and ill debtors, and was otherwise virtuous; they dispensed with that part of the decreet anent the wearing of the habit.

Fol. Dic. v. 2. p. 172. Dirleton, No 252. p. 122.

1675. June 28. LANGLANDS, Supplicant.

No 91.
Found in conformity to Kinnier against ———, *supra*.

A BANKRUPT having obtained a *bonorum* by a bill, desired the LORDS to dispense with his wearing the habit, in respect of an attestation of two persons, that he had become irresposal, upon the account of cautionry, and other occasions mentioned therein; which the LORDS did, albeit some of their number were of another opinion, and did urge, that by the act of Parliament, such persons being infamous, and the LORDS, by an act of sederunt, having ordained, that they should wear the habit, as is the custom in all other nations, that they may be known to be such persons, the LORDS neither could nor ought to dispense with express laws and statutes; and that no respect ought to be had to the attestation, being emitted by private persons having no authority, and not cited nor sworn to that purpose; and the pretence contained in the attestation was most irrelevant.

Clerk, *Gibson*.

Fol. Dic. v. 2. p. 172. Dirleton, No 282. p. 137.

1675. July 3. KEY against HER CREDITORS.

No 92.
When the bankrupt had sworn the ordinary oath in a *cessio*, the Lords refused to put an oath in more extensive terms.

THE pursuer of a *bonorum* having given her oath, that there was no fraudulent deed done since the disposition whereby the pursuer *cesserat* and disposed *omnia bona*;

It was *urged*, That the pursuer should declare also, that no fraudulent deed had been done by her to defraud the creditors, whether before or after the disposition; which was refused by the LORDS, in respect that the ordinary oath given by such pursuers did run in the terms foresaid, that they had made no fraudulent right since the subscribing of the disposition. Some of the LORDS were of opinion, that the pursuer should have declared, that she had done no fraudulent deed at any time; seeing *cessio bonorum* is an extraordinary remedy, indulged to persons who are become *lapsi* upon some extraordinary occasion, without their own fault or fraud, and upon that account deserved favour,