

the writs and evidents out of the way; therefore craved an order to cause sequestrate them, and seal up the chests, trunks, and cabinets, where they were, and put them in the custody of the clerk of the process; and to take his oath and his wife's anent any embezzlements; and if any of them has been given out, and where they are. The Lords, in this extraordinary case requiring haste, allowed them to be sealed and put in the clerk's hands, and his own oath to be taken; there being *periculum in mora*; but refused to examine her upon a bill, seeing the two reasons for her husband's oath did not meet in her case, viz. that he was on death-bed, and that it was his estate that was under roup; else there should be no use for exhibitions *viâ ordinariâ*, if such summary applications were always granted.

No. 5.

Fol. Dic. v. 2. p. 366. Fountainhall, v. 1. p. 791.

1702. December 24. CREDITORS OF BROOMHALL, Supplicants.

SIR James Hall of Dunglass, George Baillie of Jerviswood, and other creditors of Sir Alexander Bruce of Broomhall, and Alexander Bruce, his son, gave in a petition to the Lords, representing, That Sir Alexander had obtained a protection against his creditors in Parliament, on deponing he had no means wherewith to pay them; and Alexander being in prison, had raised a *cessio bonorum*, and yet both of them were in possession of the lands of Broomhall, and had bought in the preferable rights both on it and Dairsie, in the names of extraneous confident persons; and therefore craved the rents might be sequestrated, and a factor put in for the creditors' behoof. The Lords refused the desire of the bill, in regard they were but personal creditors, and there was no ranking depending; and none but real creditors could seek summarily to dispossess the debtor. But, the very next day, Carmichael of Maulsley, Colonel Erskine, and other real creditors of Broomhall, presented a new bill, craying a factor to be put in at their instance; which the Lords remitted to one of their number to hear the parties thereupon.

No. 6.
Who may apply for sequestration of a bankrupt estate, and for a factor?

Fol. Dic. v. 2. p. 366. Fountainhall, v. 2. p. 168.

1704. January 22. WEIR and Others, Supplicants.

WILLIAM LAURIE, tutor of Blackwood, having deceased this day, application is made to the Lords by Sir George Weir of Blackwood, his grandchild, and other friends, representing, That he had many papers in his custody belonging to them, the Duke of Douglas, and others, which might be abstracted or embezzled; therefore craved a warrant to seal and sequestrate them, till friends might meet and inspect them. The Lords remembered there was an act of sederunt made

No. 7.
Immediately upon the death of a party who had papers belonging to others, the Court, on pe-