only be preferred *pari passu*, and agreed that a contrary law would make a terrible convulsion in our land rights. If a suit was once commenced for the Crown, an adjudication following at 20 years distance might be preferred to adjudications completed many years before. Kames put a pretty singular construction on the act *6to Annæ*, that though it gave a privilege to the Crown's causes in the Court of Exchequer, such as they had in the Court of Session with respect to being called, yet that in competition with other creditors it gave them no preference, not even on goods and chattels. But what surprised me most was, that Lord Kilkerran told me, after that decision, that he asked Mr Craigie, who was at the Bar, but not in the cause, if he had any doubt? (both of them having been King's Advocates,) and that he said he always doubted, whether the King's debts had not a preference on lands, even by the law of Scotland. *Vide* 18th July 1754, when this interlocutor was adhered to. (See Note of No. 1. *voce* KING.)

ADULTERY.

No. 1. 1744, Jan. 20. STEEDMAN *against* COWPER.

THE question was, Whether an action of damages lies by the law of Scotland for adultery against the adulterer, and whether that civil action can proceed before a criminal prosecution? We had no difficulty as to the first; but as to the second we differed. Royston and some others thought it not competent till conviction, but it carried by a great majority, that it is competent before us in the first instance; of which opinion I was, as was the President—17th June 1743.—Adhered, 29th June, and refused a bill without answers.

UPON advising the proof in this action of damages, the defenders disputed, that the defender's adultery with the pursuer's wife was not proved. But their chief defences were, That they had proved her guilty with three other men before Couper came acquainted with her; *2dly*, That from the proof, there was reason to believe that the pursuer's wife rather seduced the defender than he her. In giving our opinions, Arniston thought, that by the law of Scotland, action did not lie, as did Kilkerran; but that point was settled by our interlocutor of 17th and 29th June last. First we found the libel proved without a vote,—next we found no sufficient defence, and found the defender liable in the expenses of the former process of divorce and appeal, and of this process,—to give in an account of his damage through loss of business,—and remitted to the Ordinary to tax the same.—20th January.

ADVOCATE.

No. 1. 1743, Nov. 25. GARDEN of Troup *against* MR RIGG.

THE Lords found, that indefinite receipts of money in part payment of what the payer owed were no interruption of prescription of any particular debt, and likewise that a general submission of all claggs and claims, without proving that that particular debt was claimed, or where the submission was totally cancelled, was no interruption,—and that a trustee who uplifted his employer's money and applied it to his own use, but acquainted his employer of his having done so, was not liable for annualrent. Lastly, That Mr Rigg