

- No. 20. Christie, and thereby Straiton became his debtor in L.281. In May 1744, he broke, and a commission of bankruptcy went out against him, whereof he acquainted Christie, and sent him his account, that he might draw his share with the other creditors; which Christie neglected; but in July 1744 took a decret in absence here against Straiton. He again complied with the statute, and got the Chancellor's certificate, and began again to trade with people in this country. Thereafter Christie arrested in the hands of Straiton's debtors; to prevent which, Straiton drew bills on them to John Spence, in trust for his own use. The competition came before me, and I this day reported the question, whether Christie was barred by the statute of bankruptcy from attaching Straiton's effects acquired since the bankruptcy. The difference betwixt this and the former (No. 19.) being, that there the debt, the promissory note, was contracted without doubt in England, whereas the debts in this case were contracted in the above manner. However, the Lords in this case also found that Christie was barred. See FOREIGN. (See DICT. No. 96. p. 4569.)

1747. November 13.

CAPTAIN THOMAS OGILVIE *against* CREDITORS of JOHN ABERDEEN.

No. 21.
Competition between an arrester and the assignees of a commission of bankruptcy in England.

IN a process of forthcoming against the debtors of John Aberdeen, merchant in London, who broke there, compeared the assignees of the commission of bankruptcy in England, and craved to be preferred; in respect the common debtor resided in England, and broke there, and as *mobilis sequuntur personam*, the preference must be judge dby the law of England, by which all arrestments were voided by the commission of bankruptcy; *2do*, because the pursuer, Captain Ogilvie, had actually entered his claim before these Commissioners. But we thought that moveables in Scotland could only be attached by diligences issuing out of the Courts in Scotland, and therefore the preference of them could be judged only according to the law of Scotland; and we had no regard to the second, in respect of the answer, That the Commissioners refused to admit his claim, or to prove his debt, because he had arrested in Scotland. Therefore we preferred the pursuer's arrestment. *Me referente* for advice. See FOREIGN.

1747. December 5, 8.

THOMAS MORISON *against* STRICHEN.

No. 22.
Effect of the Chancellor's certificate.

THOMAS GORDON, merchant in Aberdeen, in January and February 1744, remitted to Morison, merchant in London, a bill and a parcel of

of stockings, to be applied in payment of a bill due by Gordon to one in London. Morison sold the stockings and discounted the bill, but did not pay Gordon's bill, and broke in March 1744. In April a commission of bankruptcy went out against him, and he obtained the Chancellor's certificate of his having complied with the statute. Gordon took a decret against him in this Court; and Morison having come to Scotland, Gordon took him with caption. Morison presented a bill of suspension and liberation, and quoted the two precedents on the preceding page. The Court was divided in opinion, but upon the question past the bill upon caution *judicio sisti*, when he shall be called for. *Referente* Strichen. See FOREIGN.

No. 22.

1748. July 19, 23. M·KINNIE and Others *against* FORRESTERS.

WE found the charge of fraudulent bankruptcy against George Forrester, and that Robert his brother was partaker with him in his fraud, and therefore declared them infamous in the words of the act 1621. Ordered them to be pilloried at Glasgow, (where the fraud was committed,) 10th August next, with a paper on their breasts, "Infamous fraudulent bankrupt," and then to be banished to the plantations in America for seven years. See No. 3. *supra*. (See Kilkerran's report of this case, DICT. APPEND. II. *voce* BANKRUPT and *voce* DELINQUENCY.)

No. 23:
Punishment of
fraudulent bank-
ruptcy.

1749. November 7.

CREDITORS of CASTLE-STEWART, *i. e.* DICKSON *against* MARGARET MITCHELL.

No. 24.

IN a reduction on the act 1696, of a disposition to the superior, whereon there followed resignation *ad remanentiam*, but no sasine, the Lords found that the disposition was to be accounted as of the date of that resignation.

1750. July 10.

CREDITORS of JOHNSTON, *Competing*, *viz.* EARL HOPETOUN *against* NISBET of Dirleton and INNES.

No. 25.

A MERCHANT incarcerated a few days on a caption and then set at liberty; and granting a bond of corroboration of the debt whereon infetment followed, and continuing many months to keep open shop and to trade as for-