

the Factory. Johnston raised reduction of the disposition and infestment on the act 1621, as without any valuable consideration given to Burnet; but the Lords made no difficulty to repel that reason. *2dly*, On the act 1696, first on Burnet's incarceration in May before the heretable bond; secondly, because of the second incarceration in October 1747, for that the disposition must be reckoned of the date of the infestment in April 1748: But they made as little difficulty of repelling the first, because this bond, though granted after incarceration, yet was not in security of a former debt, but was a *novum debitum*; and for the same reason they repelled the second, for they thought that debts newly contracted, were not at all within the sanction of that law, notwithstanding the former contrary decision between the Creditors of Merchiston and Colonel Charteris.* And *2dly*, As Burnet's own right was only personal, and no sasine was or could be taken on it, but on Moffat's, they thought it was not in the case of the last clause of the act 1696. The President indeed doubted of this last, but he was clear as to the former. *Me referente*. (See DICT. No. 200. p. 1130. and No. 265. p. 1242.)

No. 27.

E752. November 16.

ROBERT CRAWFURD *against* STIRLING and COMPANY, and Others.

A CHAPMAN having stopped payment, indebted to Stirling and Company, Stirling bought shop goods to the amount of the debt, or a trifle more, and discharged the debt, and got a discharge of the goods and paid the balance; and being indebted also to another Company, one of the partners bought in his own name shop goods to the amount of not only the debt due to the Company, but another debt due to a friend of the buyers, who discharged both debts, and got a discharge of the goods. Crawford, another creditor, raised horning and caption, and brought the chapman within the act 1696, anent notour bankrupts, arrested in the hands of these Companies, and pursued forthcoming. A proof was brought of notour bankruptcy, and the defences were, that the sales were lawful, and that it was lawful to the bankrupt to apply the price in payments of debts, agreeable to the decision Forbes against Brebner, (No. 26, *supra*.) The Court unanimously repelled the defences, and decerned in the forthcoming.

No. 28.

Ineffectual for a creditor to buy goods of his debtor after bankruptcy, and discharge the debt in payment of them. The price will notwithstanding be arrestable.

* See DICT. *voce* BANKRUPT, No. 261, p. 1233.

See Creditors of M'Kay against Baldwin, 22d July 1735, *voce* BILL OF EXCHANGE.

See Trustees of Colonel Johnston of Gartney against Creditors, 19th January 1738, *voce* RECOMPENCE.

See Sir William Maxwell against Creditors of Sir Godfrey M'Culloch, 2d January 1739, *voce* COMPENSATION.

See Sir Archibald Grant against Creditors of Grant of Tullifour, *voce* FRAUD.

See NOTES.