

1775. November 18. ROBERT DICK *against* His CREDITORS.

CESSIO BONORUM.

Case where the Court refused to dispense with the habit.

[*Fac. Coll.*, VII. 135 ; *Dictionary*, 11,791.]

PRESIDENT. The facility of the Court in granting *cessios* has been of too great prejudice to the mercantile world. I doubt how far a smuggler is entitled to the benefit of the *cessio*. That benefit is only granted to the unfortunate. A man who cheats the revenue, and is detected, cannot be called *unfortunate*: he is an unsuccessful cheat. At no rate whatever can we dispense with the habit.

HAILES. We have already gone far in granting the benefits of the *cessio* to smugglers. We can go no farther unless we dispense with a most express statute.

On the 18th November 1775, "In respect that the bankruptcy has arisen from illicit practices and contraband trade, not from innocent misfortunes, the Lords refused to dispense with the habit."

*Act.* G. Fergusson. *Alt.* J. Boswell.

1775. November 22. ABRAHAM ROWAN *against* ROBERT ALEXANDER.

DEATHBED—PRESUMPTION.

A general settlement of one's estate dispensing with the delivery, and containing power to revoke, not held to be annulled by a posterior partial settlement in favour of others, executed on deathbed, which contained no direct revocation of the former, nor the second reducible as on deathbed in a question between the heir-at-law and the disponees in both deeds.

[*Faculty Collection*, VII. 139 ; *Dict.*, 11,371.]

PRESIDENT. The case of the succession of Sir James Cunningham was determined finally here; but there was a great difference of opinion. On appeal the respondent was advised to compromise matters. The lawyers came to the bar, and declared that they were agreed in the affirming the judgment. There was a compromise, and a sum paid. Lord Hardwicke said that the respondent was well advised. This case is not so narrow as that of *Cunningham*; for *there* the former deed was actually cancelled, at least that copy of it which was in the power of the disponent.