

On the 28th February 1788, "The Lords preferred Scot, the assignee;" adhering to their interlocutor of the 27th November 1787.

*Act.* Ilay Campbell. *Alt.* Allan M'Conochie.

*Diss.* Henderland, Stonefield, Braxfield, Dunsinnan, Hailes.

1788. *March 1.* JOHN HAY *against* CREDITORS of ANDREW SINCLAIR.

#### BANKRUPT.

A person assigned his share in a mercantile adventure. The assignment was not intimated till within sixty days of his bankruptcy; found that the assignment being made, though not intimated before bankruptcy, was effectual.

[*Fac. Coll. X. 45 ; Dict. 1194.*]

JUSTICE-CLERK. The petitioner endeavours, by analogy, to extend the Act 1696 from heritable to personal rights, for which there is no authority in law. Much is argued from the time and manner of intimating the assignation; but, in truth, intimation was not necessary at all.

DREGHORN. This is a hard case: a person gets an assignation and conceals it. People deal with the assigner, supposing him still to have a property, which he has not.

HENDERLAND. It might be right to remedy this by a statute; but the law, as it stands, gives no remedy.

On the 1st March 1788, "The Lords repelled the reasons of reduction;" adhering to the interlocutor of Lord Rockville.

*Act.* G. Buchan Hepburn. *Alt.* J. Pringle.

1788. *March 8.* WILLIAM HANNAY *against* JAMES STOTHERT and OTHERS.

#### SALE.

Condition, that if the highest offerer at a sale do not find caution within thirty days, the purchase shall devolve on the immediately preceding offerer: Found to give this last a positive right if the exposers had called on him for performance.

[*Fac. Coll. X. 58 ; Dictionary, 14,194.*]

MONBODDO. This is not a conventional irritancy, but a conditional sale; and the condition has not been complied with: Had there been no prior offerer, the