

THE LORDS, in respect it was admitted by the procurator for the creditors, that Bailie Hay had a sufficient free estate at the date of the bond, sustained the same.

No 54.

C. Home, No 203. p. 337.

S E C T. VI.

What is to be considered such a separate Estate as will bar Reduction of a Gratuitous Alienation.

1624. February 20. GEORGE PRINGLE *against* MARK KER.

THE LORDS found this exception relevant against bankrupts, that the Lord Bothwell, the time of the bond made to Mark Ker, his good-brother, there was as many lands free, as to pay the debt owing to George Pringle.

Kerse, (CREDITOR.) MS. fol. 57.

No 55.

1665. February 10. LADY GREENHEAD *against* LORD LOURIE.

THE Lady Craig, and the Laird of Greenhead her second husband, pursues the tenants of Craig, wherein she is infest, for mails and duties. In which process, my Lord Lourie compares for his interest, and *alleges*, That he having apprised the estate of Craig, and being infest, thereupon hath raised reduction of the lady's infestment, on this reason, that a part of his sums being anterior to the lady's infestment, who was competently provided, by her contract of marriage, in thirty chalder of victual; and this additional infestment of fifty chalder of victual, being betwixt most conjunct persons, husband and wife, in so far as it is posterior to the pursuer's lawful debt, ought to be reduced upon the act of Parliament 1621.—The pursuer *answered*, the reason ought to be repelled, *imo*, Because the act of Parliament being only against gratuitous dispositions made by bankrupts, in prejudice of their lawful creditors, is not relevant, seeing Craig the disponent was not a bankrupt. *2do*, As he was not a bankrupt, so neither was he *insolvendo*; because the reversion of his estate is sufficient to pay his debt, albeit the same were effected with this additional jointure.—It was *answered* for the defender, That albeit the title and narrative of the act be against bankrupts, yet the statutory part thereof is against all gratuitous dispositions by conjunct persons; so that the defender needs not allege, that either the disponent was bankrupt, or *insolvendo*, but that the lady's infestment is betwixt conjunct persons, without an

No 56.

A debtor, not bankrupt, had granted an additional jointure to his wife, formerly provided for. Contended for the lady, in a competition with an appriiser, that the reversion of the granter's estate was sufficient, altho' burdened with the additional jointure. The appriiser preferred.