

ress, or an action for implement upon a contract of marriage before the term. Is there not *par ratio* for granting adjudication in security in this case, as for granting arrestment upon a bond before the term of payment, till it be loosed upon caution?

No 57.

THE LORDS, upon report of the Lord Cullen, were clear, that decret of adjudication should be granted, in respect the defender was *vergens ad inopiam*; unless within a certain time he find sufficient caution to the pursuer.

*Forbes, p. 523.*

\*.\* Fountainhall's report of this case is No 57 p. 8149., *voce* LEGAL DILIGENCE.

1714. July 2.

Mr GEORGE ROME, Writer in Dumfries, *against* WILLIAM GRAHAM, SON to the deceased William Graham of Ingliston.

IN a reduction and declarator at the instance of Mr George Rome against William Graham, the LORDS found, that inhibition used upon a provision in a contract of marriage, made by the husband in favour of the children of the said marriage before they were born, did not denude the father of the fee, or incapacitate him to traffic or contract lawful debts with extraneous persons, but only hindered him to do any fraudulent or gratuitous deed, in prejudice of the children of the said marriage.

No 58.

*Forbes, MS. p. 75.*

1724. January 24. LYON *against* CREDITORS of Easter Ogle.

A MAN, in his contract of marriage, bound himself to pay a certain sum to the daughters to be procreated, payable at their marriages, if in his life, or, in case of his predecease, upon their attaining the age of 18. The father falling into bad circumstances, a daughter, with concurrence of the friends, at whose instance execution was to pass, led an adjudication against the father's estate within year and day of his other creditors adjudgers; who, in a competition, *pleaded*, That provisions in a contract of marriage were of the nature of succession, and must yield to lawful debts; and likewise, that an adjudication upon an obligation, the term of payment of which was not come, could not compete with their bonds, to which the law allowed *paratam executionem*. THE

No 59.