

not reducible by anterior creditors, because their father had a sufficient fortune for these portions, and all his debts.—It was *replied*, That bairns provisions were *debitum naturale*; but this was an oye whose mother was provided; and that bonds or debts were no visible estate; and it were more just that the acquirers by gratuitous dispositions should be put to seek the disponers upon their warrandice, than that creditors should be frustrate.

THE LORDS found the defence against the reduction relevant, That Houston, the first disponer, had a visible estate, sufficient for all his debts the time he disposed, whether by investments, moveables, or bonds.

*Fol. Dic. v. 1. p. 68. Stair, v. 2. p. 795.*

No 47.

1681. December. M'KELL against CALLENDER.

IN an action of reduction at the instance of Lodovick Callender against Gilbert M'Kell, of a disposition of a tenement of land in Leith, made by John Houston merchant in Leith, to ——— Houston his oye; the right whereof came in the person of Gibert M'Kell: And the reason of reduction being founded on the act of Parliament 1621, as being fraudulent and *interconjunctas personas*, without an onerous cause, in prejudice of Callender, who was a lawful creditor to Houston, granter of the disposition:—THE LORDS found these allegiances relevant to elid the reason of reduction, That Houston the grandfather had sufficient estate ever and above the tenement disposed, able to pay his debt, or that the disposition to the oye, of the tenement, was for an equivalent onerous cause.

*Sir P. Home, MS. v. 1. No 62.*

No 48.  
Found as  
above.

1687. February. SNEWEL against AUCHTERLONY.

DEBATED, if gratification by a debtor not bankrupt, but *oberatus*, and under diligence by horning at a creditor's instance, could be sustained, where the debtor had a sufficient estate, to pay all his debts, after the gratification, as is sustained against the reason, founded on the first part of the act 1621. In Lanton's case, (see No 9. p. 884. *et infra* in Div. 2. Sec. 5.) *oberatus* was found sufficient.

*Harcarse, (ALIENATION.) No 149. p. 32.*

No 49.

1710. December 7. DEAS against FULLERTON.

THE deceased Captain Fullerton having some arrears owing him in the commission of the equivalent's hands, and being debtor to Mr James Deas writer, in L. 30 Sterling, he confirms himself executor-creditor to him for affecting that sum; and pursuing for payment, they suspend on double pointing, that they are likewise distressed by John Fullerton of Auchinhall, claiming right to the same debt by virtue of an assignation he had thereto from the Captain, and duly

No 50.  
A gratuitous  
assignation to  
a conjunct per-  
son, a few  
days before  
the granter's  
death, was re-  
duced at the  
instance of a