

his effects from being carried off by poindings at an under value, is not certain; but this is certain, that the favourite creditors, most of them the bankrupt's near relations, got the start by arresting in the hands of the purchaser. ' This produced a reduction of the bargain at the instance of the other creditors; and the bargain was accordingly reduced, not as to the purchaser, but only as to the creditors, to the effect of ranking them all *pari passu* upon the price.'

This interlocutor was carried, not upon any just principle, which seems not easy to be found, but upon a natural impulse to redress a wrong, which deserved redress had there been law for it. The difficulty is, that there is no foundation, either in common or statute law, to reduce a sale made by a bankrupt for a full price. Neither did the Court take upon them to reduce the sale. On the contrary, they held the purchaser bound, and ranked the creditors upon the price. So far I could have gone, as to find that the bankrupt's relations and neighbours could take no benefit from their arrestments against the more distant creditors, when the preference of the former was probably one of the bankrupt's motives for making the bargain. But unluckily it came out in the course of the process, that nine arrestments were laid on by creditors who were not parties to the process, and who had no such connection with the bankrupt, as to admit of a supposition that he had any view to prefer them. This was a pinching circumstance, because the pursuers had not arrested, nor done any sort of diligence against the bankrupt; and the Court could find no other means to come at what was reckoned material justice, but to pronounce the above interlocutor.

Sel. Dec. No 65. p. 85.

1781. March 9.

BLAIKIE *against* ROBERTSON.

It has been found, that a voluntary disposition for a price instantly paid, and not for anterior debts, fell not under the statutes 1621 and 1696: In like manner, that voluntary securities, granted for money instantly received, were not affected by these statutes; Erskine, large Instit. b. 4. tit. 1. § 43. In this case, it appeared from a proof, that the sums for which an heritable security was granted by the bankrupt, had been advanced by a favourite creditor, through an interposed person, in order to prefer that creditor, by making payment to him of the money so advanced: The transaction being thus evidently calculated to *elude* the statutes,

THE LORDS 'reduced the security.'

Ordinary, Lord Braxfield.

Adv. Hay Campbell, Craig.

Adv. M^r Laurin, Abercrombie.

Eol. Dic. v. 3. p. 48. Fac. Col. No 51. p. 90.

Craigie.

No 11.

No 12.

A sale contrived to *elude* the statutes, by means of instant payment to interposed persons, in order to favour particular creditors, reduced.