

RANKING AND SALE.

SECT. I.

In what Cases may a Legal Sale take place?

1733. *January 24.* RANKING of HALLGREEN.

No 1.

IN the sale of the estate of Hallgreen, compearance was made for Burnet of Monboddo, who had purchased a part of the debtor's lands long before the bankruptcy, and had applied the price to purge incumbrances, but had neglected an infetment of annualrent preferable over the lands sold, as well as over those remaining with the common debtor. It was *pleaded* for him, That his lands ought to be struck out of the sale, seeing his case could not be reached by the act of Parliament, being neither debtor nor bankrupt. *Answered*, That *quoad* the annualrenter, the lands must be held as belonging to the bankrupt. *Replied*, The annualrenter may indeed follow forth his diligence by pointing the ground, which is all he is entitled to by the nature of his right. In this case, the annualrenter is in no worse situation than if his own debtor were not bankrupt; and there is no reason he ought to be in a better, which he would be, upon supposition he could sell his lands upon his debtor's bankruptcy; for no doubt he can bring them to a sale upon Monboddo's bankruptcy. THE LORDS found the lands purchased by Monboddo cannot be exposed to sale with the rest of Hallgreen's lands, but prejudice to the annualrenter to affect Monboddo's lands, as accords.—*See APPENDIX.*

Fol. Dic. v. 2. p. 310.

1769. *March 7.*

THOMAS PEAT *against* ELIZABETH BEG, Relict of JAMES JOHNSTON.

No 2.

JOHN CLYDE, mason in Douglas, in 1741, granted an heritable bond for 1200 merks, upon his lands of Crossburn, to George Forrest, and infetment was taken.

After summons of ranking and sale, can a dispo-