

Adjudication by rans being designed as a general Remedy both for Creditors and Debtors, the Lords do not sustain it, unless the Debtors whole estate be contained in the Summons: Because a part of the Bankrupts estate is to be Ransed by chusing out the mansion place and some of the best, and render the rest of little Value and less Desirable to purchasers. So that the Debtor or any Creditor before a term assigned for proving the Debt is instructed that a part of the Estate is omitted, that will be added.

1692 Kinloch Contra Scot of Bonningtown. Upon a summons of Rans and sale the Debtor, and all his Real Creditors in the actual possession of his estate by labouring or uplitting the Rents, are cited in the common form of Law; and his other Creditors with all pretending Interest, are cited conform to a warrant in the summons upon 60 & 15 days for the first and second diets, at the Market Cross of Edinburgh and per the first and also upon twenty one and six days before the said days of Rans and sale, at the parish church door where the lands lay, after dinner twice: The Executions of which Cited Citations are to be Recorded in a particular Register at Edinburgh, the last day to which Citations are given; otherwise they make no faith in Judgement act of seder. 13 Novemb. 1711 §1 The Common Debtor who is called only in the sale, and can object only against his being Insolvent, cannot put the pursuer to Run the Course of the Act; tho the Creditors to be cited may do it if they please. But if the Creditors Concur with the pursuer, the process after it is seen and returned goes to the requisite Role.

At the first calling of such summons, the ordinary assigns a day for the Creditors to produce their rights and Interests; and names the Lord who falls to be ordinary to Rans them act of seder. 13 Novemb. 1711 §6 and assigns the same day to the pursuer for proving the debt to be bankrupt, the Rental and Casualties of the lands, the right of the tithes, and for proving the ordinary rate and price of lands of holding and Caswalties in the shire where they ly. A Commission if desired will be granted for proving the Rental by tenants in the Country, and for proving the Value of the lands by neighbouring heritors and Gentlemen before the Lords. See vid. Dallas Styles p. 360. The Pursuer will get a Diligence against all holders of the writs of the Debtor and Bankrupts estate, to the Effect the same may be betimeously Exhibited in the Clerks hands act of seder. 23 Novemb. 1711 §3. Seldom any person but the pursuer Extracts acts and Diligence or produces witnesses for proving the points of the sales.

The ordinary in the Ransing proceeds, advises, and Debts

Determines therein, as is set forth in another place vid. infra part 4 Book 3 Chap. 2 §1 Sect. 5. Mean time proof of the Bankruptcy, rental value and other points of the sale good or ill of the Bankruptcy or Insolvency of the Common Debtor may be proved by the interst of the whole Creditors if produced, or by a Declaration of abbreviates of adjudications against him under the hand of the Clerk of the Act. In the Estimation of the Value of the Lands, the benefit and convenience by houses orchards parks, Coal Quarries Woods fishings, services upon other lands by the Ransers and services affecting them, Manors of holding, & arrangements and the tithes are considered.

The pursuer of a sale and Ransing of a bankrupts share, having carried on the process his own private Expenses, the Record of Ransing was heard to be Extracted, in the first to be made: the Lords upon a petition offered by him Remitted to the ordinary in the Ransing to make up a sum for reimbursing the pursuer or what he had Expended, and for perfecting the sale and Ransing act of seder. 1709 Buffol Brauce Supplicand. The Common Expence of raising the Ransing or process of sale and Ransing and Extracting Deeds to be done with was 4/9: application, he desired to be advanced out of the Bankrupts Estate, with this provision: that an account of the said Expence be laid before the ordinary of the sale, to be by him Computed Liquidated and stated upon the price at so much per Cent; that it may be proportioned among the Creditors according to their several shares act of seder. 23 Novemb. 1711 §9. which Extracta affects and Comes off the whole Creditors Equity and proportionably according to the share as they draw of the price 25 July 1711 § Creditors of Blair or Bushin vote contra his Daughters. for Ransing and sale being a Common Benefit to the Creditors, the Expence thereof ought to be a Common Burden upon Every Creditor first and last that obtains a piece in the Ransing within the price equally in proportion to their Interest therein. This Expence Immediately after the sale is to be paid in by the purchaser to the factor if any be or else to the Clerk of the process, to be Counted for by them to the Creditors, or to the pursuer of the sale and Ransing in case he advanced the same; and shall be allowed to the purchaser out of the first end of the price, or retained by him off the Creditors having right as accords do act of seder. 23 Novemb. 1711 §9. If the pursuer of a process of sale and Ransing, during the Dependance, die or forbear to Justice, or his Title and Interest happen to be satis fied or Extinguished, the factor if any be or any real Creditor may upon special warrant from the Lords take