On a conſideration, then, of the whole contract between the parties, the court is of opinion that Groverman remained the owner of the veſſel during the voyage, and is anſwerable for any miſconduct of the captain. Hoor & co. v. GROVERMAN.

The covenant to lay off and on at the port of Falmouth, being the covenant of Groverman, the freighters are not anſwerable in this action, for the breach of it, ſhould the orders of Fox be underſtood as their orders. It is probable that the courſe taken by the captain was the moſt prudent courſe; but were it otherwiſe, the orders of Fox might excuſe the owner from any action brought by the freighters for loſs ſuſtained by them in conſequence of going into Falmouth, but could not entitle him in this action againſt the freighters.

It is then the opinion of this court, that on this ſpecial verdict, the law is for the defendants.

Judgment reverſed, and the circuit court to enter judgment for the defendants.

GABRIEL WOOD, ORIGINAL DEFENDANT,

v.

WILLIAM OWINGS AND JOB SMITH,

ASSIGNEES OF

WILLIAM ROBB, A BANKRUPT, ORIGINAL PLAINTIFF,

ERROR from the fourth circuit court ſitting at Baltimore. Wood v. OWINGS.

This was an action on the caſe, for money had and received by Wood to the uſe of Robb, the bankrupt.

A deed of lands in Maryland, ſigned, ſealed, and delivered on the 30th of May, and

Judgment below was entered by conſent, ſubject to the opinion of the court on a caſe ſtating the following facts, viz.

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knowledged on the 14th of June, is to be considered as *made* on the 30th of May; and its acknowledgment on the 14th of June will not cause it to be such a deed as is contemplated in the bankrupt act which came into operation on the 2d of June.

On the 30*th of May*, 1800, Robb being in possession of his household furniture, and having two vessels and no other property, on the high seas, *signed*, *sealed*, and *delivered*, a deed to Charles Garts and Gabriel Wood, trustees in behalf of themselves and other creditors of Robb, therein particularly named, and such others of his creditors as should by a certain time assent to the terms of the trust; by which deed, Robb, in consideration of five shillings, and towards payment of the debts due to the *particular* creditors therein named in the first place, and in the next place of such of his creditors as should agree to the terms of the trust; grants, bargains, sells, &c. to Garts and Wood, *all his estate, real, personal, and mixed, and choses in action, &c.* in trust to sell the same and collect the debts, &c. and on receipt of the money, to retain in the first place the amount due to Garts and Wood, for money lent, &c. then to pay the debts due to the other creditors particularly named, and then to pay the debts due to such of his other creditors as should, within a certain time, agree to the terms of the trust; and if there should be a surplus to pay it over to Robb. That this deed was acknowledged on the 14th June, 1800.—That Robb did not on the said 30th of May, 1800, deliver to Wood, his books, but they remained in Robb's possession. That the vessels were not conveyed to Wood by any other conveyance than that before mentioned. That Robb continued in possession of his household furniture, books of accounts, and all his papers, until the suing out of the commission of bankruptcy, except the policies of insurance on the vessels, which were delivered to Wood at the time of delivering the deed. That Robb considered Wood as having a right to take possession of the books and papers, and personal estate, at any time after the delivery of the deed, but did not then expect to be obliged to stop business; on the contrary, that he actually went on with the hope of retrieving his affairs until the 20th June, 1800. That Robb was a trader before and after the 1st of June, 1800; that at the time of signing, sealing, and delivering of the said deed, he was the legal proprietor of a lot of ground in the state of Maryland, as assignee of a term of 99 years, renewable forever, and was also possessed of personal property, and had debts due to him; that Garts and Wood, and the other persons in the deed particularly named, were credi-

tors of Robb; and that there were other creditors beſides thoſe particularly preferred in the deed. That a commiſſion of bankruptcy iſſued againſt Robb on the 12th July, 1800, *founded on the execution and acknowledgment of the ſaid deed*, under which Robb was declared a bankrupt, and his effects were aſſigned to the plaintiffs, Owings and Smith, by a deed of aſſignment on the 1ſt of May, 1801. And that the action is brought to recover all monies received by Wood, in virtue of the ſaid deed to Garts and Wood. If on the above ſtate of facts the plaintiffs were entitled to recover, then judgment was to be entered for the plaintiffs for 3000 dollars; but if, &c. then judgment of *non pros.*

By the bankrupt act of the United States, §. 1, it is enacted, that "*from and after the 1ſt day of June next*," (1 June, 1800,) "if any merchant," &c. "with intent "unlawfully to delay or defraud his creditors, ſhall make "or cauſe to be made, any fraudulent conveyance of his "lands or chattels," "he ſhall be deemed and adjudged "a bankrupt."

Two queſtions were made by the counſel in the court below, viz.

1ſt. Whether this deed can be conſidered as made at the time of its acknowledgment on 14th June, 1800, ſo as to conſtitute it an act of bankruptcy, under the bankrupt law of the United States, which came into operation on the 2d June, 1800, or whether the acknowledgment ſhall relate back to the 30th May, 1800, the day on which the deed was ſigned, ſealed, and delivered, ſo that the deed ſhall be conſidered as made on that day.

2d. Whether, if made after the 1ſt of June, 1800, it can be conſidered as ſuch a fraudulent conveyance as is contemplated by the 1ſt §. of the bankrupt law.

Martin, for plaintiff in error,

Now waved the ſecond point and relied entirely on the firſt.

This involves three queſtions:

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1ſt. Whether the deed, ſigned, ſealed and delivered, on the 30th of May, and acknowledged on the 14th of June, is an act of bankruptcy under the law which came into operation on the 2d of June.

2d. Whether the ſigning, ſealing and delivery ſhall be conſidered as going forward to the time of acknowledgment; or,

3d. Whether the acknowledgment ſhall refer back to the time of the ſigning, ſealing, and delivery.

The debtor, independent of the bankrupt act, may prefer one creditor to another. No creditor can prevent him, unleſs by taking out a commiſſion of bankruptcy. This principle is acknowledged by all the ſtate governments, and by the laws of England, in caſes not within the bankrupt law.

In the caſe of *Hooper v Smith*, 1 *Bl. Rep.* 441, one Hooper being bona fide indebted to his mother, in the ſum of £. 800, at 8 o'clock in the morning aſſigned and delivered to his mother, half his ſtock in trade, which was taken away immediately to his mother's lodgings. On the evening of the ſame day he committed an act of bankruptcy. His aſſignees, by ſtratagem, got poſſeſſion of the goods and ſold them. The mother brought trover againſt the aſſignees, and recovered. Lord Mansfield, in that caſe, ſaid, that "a preference to one creditor, "eſpecially by aſſigning only part of his goods, and to "pay only part of the debt, has been frequently held to "be good; particularly in the caſe of Cock v. Goodfel-"low, (the caſe of a parent and child,) Small v. Owdly "and others." "Suppoſe he had ſold the goods in "queſtion to John or Thomas, and, with that ready "money, had paid his mother part of her debt; would "that ſale or payment have been void?"

The courts of Virginia, Maryland, and Pennſylvania, have always recognized the ſame principles. If the bankrupt law had never paſſed, this deed would have been protected in courts of law and equity.

Is this a fraudulent conveyance under the bankrupt law?

The acknowledgment is neceſſary for ſome purpoſes, but not to conſtitute it a deed.

A deed is defined to be a writing on parchment, or paper, ſealed, and delivered. Suppoſe a mortgage of lands, containing a covenant to pay money, be not acknowledged; it would not at law convey a legal title to the land, but it would be good as a covenant to pay the money; and would be good to paſs an equitable title to the land. Suppoſe it contained a conveyance of land and chattels; it would be good as to the chattels.

This ſhews that acknowledgment is not a neceſſary part of the deed; but only that a deed, not acknowledged, will not paſs a legal eſtate in lands, as to creditors.

But the act of Maryland, *November ſeſſion* 1766. *c.* 14. §. 2, ſays "that no eſtate of inheritance &c. ſhall paſs "or take effect, except the *deed* or conveyance by which "the ſame ſhall be intended to paſs or take effect, ſhall "be acknowledged before the provincial court &c. and "be alſo enrolled in the records of the ſame county," &c. It muſt therefore be a *deed* before the acknowledgment. And by the fifth ſection of the ſame act it is declared that every ſuch deed ſhall have relation, as to the paſſing and conveying the premiſes, from the day of the *date* thereof; thereby evidently contemplating it to be a deed from its date. This ſection was inſerted becauſe, by the former *act of* 1715, the deed took effect only from the time of its acknowledgment. But the law is the ſame independent of the poſitive declaration of this act. 1. *Bac. ab.* 277. *Bargain and ſale.* and 2. *Inſt.* 674. 675. where Lord Coke, in his expoſition upon the ſtatute of 27. *H.* 8. *c.* 16, of enrollments, ſays "And when the "deed is enrolled within ſix months, then it paſſeth "from the livery of the deed. And albeit, after the de-"livery and *acknowledgment*, either the bargainor, or bar-"gainee die before enrollment, yet the land paſſeth by "this act," "And by the words of this ſtatute, when "the deed is enrolled, it paſſeth *ab initio.*" And he cites the caſe of *Mallery v. Jennings*, determined in the common pleas, 42. *Eliz.* which was this; "one Sewſter was "ſeized of certain lands in fee, and acknowledged a re-

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" cognizance to Turner, whoſe executrix brought a *ſcire* " *facias*, upon the recognizance, bearing date the 9th. " November, 41. *Eliz.* againſt Sewſter, and alleged him " to be ſeized of thoſe lands *in dominico ſuo ut de feodo*, the " day of the *ſcire facias* brought; and the truth of the " caſe being diſcloſed by long pleading, was this; Sewſter, " 7th November, before the recognizance acknowledged, " by deed indented, for money, had bargained and ſold " the ſaid land to another, and the deed was enrolled " the 20th November following. The queſtion was, " whether Sewſter was, upon the whole matter, ſeized in " fee the 9th of November, the deed being not enrolled " until the 20th of the ſame November. And it was " adjudged, *una voce*, that Sewſter was not ſeized in fee " of the land on the 9th day of November. For that " when the deed was enrolled, the bargainee was, in " judgment of law, ſeized of that land, from the *delivery* " of the deed. And it was reſolved, that neither the " death of the bargainor, nor of the bargainee, before " enrollment, ſhall hinder the paſſing of the eſtate. And " that a releaſe of a ſtranger to the bargainee, before en- " rollment, is good. So that it holds not by relation, be- " tween the parties, by *fiction of law*; but in point of " eſtate, as well to them, as to *ſtrangers* alſo. And that " a recovery ſuffered againſt the bargainee, before enroll- " ment, (the deed indented being, afterwards, within the " ſix months, enrolled) is good, for that the bargainee was " tenant of the freehold, in judgment of law, at the " time of the recovery. And *non refert* when the deed " indented is *acknowledged*, ſo it be enrolled within the " ſix months. And all this was afterwards affirmed for " good law by the court of common pleas, *Trin.* 3. *Iac.* " upon a ſpecial verdict given in an *Ejectione firmæ* be- " tween *Lellingham and Alſop*; and further it was there " reſolved, that if the bargainee of land, after the bar- " gain and ſale, and before the enrollment, doth bargain " and ſell the ſame, by deed indented and enrolled, to " another; and after the firſt deed is enrolled, within " the ſix months, the bargain and ſale, by the bargainee, " is good."

In 18 *Viner* 289 *Tit. Relation*, it is ſaid, " When *two* " *times, or two acts* are requiſite to the perfection of an

"act it ſhall be ſaid, upon their conſummation, to receive "its perfection from the *firſt*."

If A. makes a deed to B. on the 30th of May; and another for the ſame land to C. on the 1ſt June, and acknowledges it the ſame day; afterwards, on the 14th of June, he acknowledges the deed to B. this over-reaches the deed to C. and the acknowledgment of the deed to B. is not a fraudulent act.

Suppoſe A. makes a *bonâ fide* deed to B. for valuable conſideration, on the 30th of May. On the firſt of June A. commits an act of treaſon. On the 14th of June he acknowledges the deed to B. The land is not forfeited by the treaſon of A.

If an indictment had been found for forging this deed, and to ſupport the indictment, evidence had been given of the forgery of the acknowledgment only, would that have ſupported the indictment?

If a declaration upon this deed, ſtating it to have been made on the 14th of June, had been drawn, would it have been ſupported by producing in evidence, this deed ſigned, ſealed and delivered on the 30th of May?

This deed intends to convey *choſes in action*, and *perſonal effects*, as well as lands. As to the former the deed is good without acknowledgment; for as to the choſes in action, the deed without acknowledgment is an equitable aſſignment, and if acknowledged it would have amounted to nothing more.

But if the aſſignees are entitled, they muſt take the bankrupt's eſtate, ſubject to all the equity of others. 2 *Veazy, ſenr.* 585, 633. *Cooke's bankrupt law*, 203. *Tayler v. Wheeler*, 2 *Vern.* 564.

Courts of law will protect equitable rights; as in the caſe of *Winch and Keeley*, 1 *Term rep.* 619, where the plaintiff having aſſigned his right of action to Searle, and having become bankrupt, was ſtill held able to ſupport the action for the benefit of Searle, notwithſtanding the aſſignment of his effects under the bankrupt laws.

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And by the authority of *ex parte Byas*, 1 *Atk.* 124, if the aſſignees had received the money due to Robb, the bankrupt, they would have been obliged to pay it over to Wood, the plaintiff in error, inſtead of receiving it from him.

The deed is not fraudulent *in ſe*; and would not now be queſtioned if the bankrupt law had not been paſſed. Although it is a deed of all his effects, yet it is not an abſolute deed, nor was it made on any ſecret truſt, or for his own benefit. The only thing which can be alleged againſt it is, that it gives a priority to ſome of his creditors, and this he had a clear right to do, both in law and equity. It was not made in ſecret; it holds up no falſe colours, it enables him to receive no falſe credit. He might have ſold the property for ready money, and paid any one of his creditors in full. But making a deed of truſt, he has prevented a ſacrifice of his property, whereby it is competent to ſatisfy a greater number of his creditors, and he is himſelf rendered more able to pay the reſidue of his debts by his future induſtry.

The committing an act of bankruptcy is, in law, conſidered as criminal. The bankrupt law is, therefore, in this reſpect, to be conſtrued ſtrictly. It ought not to be extended beyond the letter of the law. *Cooke B. L.* 67. *Cowp.* 409, 427, 428. 5 *Term rep.* 575. 7 *Term rep.* 509. *Fowler v. Padget.*

But however fraudulent the deed might have been, yet it was no act of bankruptcy, under the act of congreſs; becauſe not executed after the 1ſt of June; unleſs the acknowledgment can be conſidered as the *making* of the deed. And if it was not an act of bankruptcy, the title of the defendants in error fails.

Harper, contra.

The act of bankruptcy charged, is the making a fraudulent deed after the 1ſt June, 1800. The counſel for the plaintiff in error having abandoned the ſecond point which was made, and ſtrongly contended for, in the court below, the only queſtion now to be conſidered is, whether the deed was made before or after the 1ſt of June.

A deed, at common law, is an inſtrument in writing ſigned, ſealed and delivered. If it be ſigned and ſealed, but not delivered, it is no deed; and the reaſon is, that until the laſt act of volition is performed, there is ſtill a power of recalling it.

The caſes from the Engliſh books reſpecting the ſtatute of enrollments, are not applicable to the law of Maryland reſpecting acknowledgment. The Engliſh laws only protect creditors and purchaſers without notice. But the law of Maryland is intended to protect the maker of the deed himſelf, to prevent forgeries and fraud, and to give a further ſolemnity, that the grantor may have more time to reflect, and to ſecure himſelf from being ſuddenly entrapped. The law therefore ſuperadds to ſigning, ſealing and delivery, a further act of volition.

It is ſaid that a court of equity will ſet up ſuch a deed; true, it would, in certain caſes; but not becauſe it is a paper ſigned and ſealed; but becauſe it is a contract for a valuable conſideration. But this deed would never have been ſupported in a court of equity, if it had not been completely valid at law. Suppoſe Robb had refuſed to acknowledge it; and application had been made to chancery to carry the deed into effect; it would have been refuſed.

Can a deed be ſaid to be made when it is not complete? It was not complete on the 30th of May; ſomething was ſtill to be done, of which it would have been neceſſary to apply to a court of chancery to compel the performance.

If acknowledgment is neceſſary by ſtatute law, it is the ſame as if neceſſary by common law. The one is as binding as the other. They are both derived from the ſame ſource, but evidenced in different modes. Signing, ſealing and delivery only are neceſſary by the common law, but acknowledgment alſo is neceſſary by the ſtatute.

The deed of land was an act of bankruptcy, and prevented the operation of the deed as a deed of perſonal eſtate. The deed for the land and for the chattels was executed *eodem inſtanti*.

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Chaſe, Juſtice. The effect of an acknowledgment is to prevent the grantor from pleading *non eſt factum.*

Harper. By the law of England acknowledgment is not neceſſary But by the law of Maryland it is a neceſſary part of the conveyance, and can no more be diſpenſed with, than the ſigning, ſealing and delivery. Having ſigned and ſealed, the grantor may refuſe to deliver; ſo, having ſigned, ſealed and delivered, he may refuſe to acknowledge, and in either caſe it is no deed. The deed, therefore, was not made till the 14th of June.

Martin, in reply.

Acknowledgment is abſolutely neceſſary in England, before enrollment. *Viner, Tit. Enrollment, p.* 443 "no "deed, &c. can be enrolled, unleſs duly and lawfully "*acknowledged*, cites *Co. Lit.* 225 (b.)" The acknowledgment is the warrant for the enrollment. An acknowledgment in Maryland has no greater effect than in England.

There was an enrollment at common law, for ſafe cuſtody, it makes an eſtoppel, and the party cannot plead *non eſt factum.* Per Holt ch. j. *Comb.* 248, *Smart v. Williams, cited in Viner, tit. enrollment, p.* 444. *And in p.* 445, it is ſaid, "Enrollment of a deed is to no other purpoſe, "but that the party ſhall not deny it afterwards," and cites *Br. Faits enrol. pl.* 4. And in *Sav.* 91. *Holland v. Downes* cited in *Viner tit. enrollment p.* 446, 447, it is ſaid "the *ſealing and delivery* is the force of ſuch deeds, "as deeds of bargain and ſale, &c. and not the *enroll-* "*ment.*" And again, in the ſame caſe, "Bonds, indentures "and deeds take their force by the delivery; ſo there is a "perfect act before the conuſance is taken, and before "any enrollment." The enrollment could not be made upon proof by witneſſes. The acknowledgment was the only authority.

Harper.

The enrollment is the act of the grantee. The acknowledgment is the laſt act of volition of the grantor. It is wholly voluntary; he may refuſe; and if he does, the deed has no effect. In England, the acknowledgment is

a regulation of the courts, not a proviſion of the ſtatute of enrollments. That ſtatute is different from the act of Maryland; the latter expreſsly requires the acknowledgment, and no eſtate paſſes at law without it. It therefore becomes as much a requiſite of a deed, as ſealing or delivery. It is not only an abſolute requiſite that the deed ſhould be acknowledged, but the courts of Maryland have been very ſtrict in requiring it to be done preciſely in the mode preſcribed. In the caſe of *Hall and Gittings*, decided in the court of appeals in Maryland, the caſe was, that the grantor reſided in *Anne Arundel* county, but the deed deſcribed him as a reſident of *Baltimore* county, where the lands were ſituated. The acknowledgment was made in *Prince George's* county. This acknowledgment was decided by the court of appeals not to be good, and the cauſe was loſt, upon that ground, although the deed was twenty-five years old, and poſſeſſion had been quietly enjoyed under it. The error was diſcovered by the court themſelves, and had not been ſuggeſted by the counſel at the trial.

It has alſo been decided that the acknowledgment of a *feme covert* muſt be preciſely in the form preſcribed by the act.

This ſhews the great importance of acknowledgments in Maryland.

Martin, in reply.

The acknowledgment in England is not a regulation of the courts only, but is a principle of the common law relative to enrollment, which exiſted before the ſtatute of enrollments. It was known, at the time of enacting that ſtatute, that by the common law, an acknowledgment was a pre-requiſite to enrollment. It was not neceſſary therefore that it ſhould be expreſsly preſcribed by ſtatute. Acknowledgment and enrollment was a proceeding well known and underſtood, and was not originated by the ſtatute of 27 H. 8 The ſtatute only applies the proceſs to new caſes, or makes it neceſſary where before it was only voluntary.

As to the caſe of a *feme covert*, ſhe could not, by the

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common law, convey her land, except by fine and recovery. But the law of Maryland authorizes her to do it in a certain mode. That mode muſt therefore be ſtrictly purſued.

March 1ſt. The chief juſtice delivered the opinion of the court:

This is a writ of error to a judgment of the circuit court of the fourth circuit ſitting at Baltimore, in the following caſe.

On the 30th of May, 1800, William Robb, who was then a merchant carrying on trade and merchandize, in the ſtate of Maryland, ſigned, ſealed and delivered to Gabriel Wood, an inſtrument of writing, purporting to convey to the ſaid Gabriel, his real and perſonal eſtate in truſt, to ſecure him from certain notes and acceptances made by him, on account of the ſaid Robb, and afterwards, in truſt for other creditors in the deed mentioned. This deed was acknowledged on the 14th of June; and was then enrolled according to the laws of Maryland.

On the 12th of July, 1800, a commiſſion of bankruptcy was ſued out, *founded on the execution of the deed above mentioned*, and the ſaid William Robb, being declared a bankrupt, his effects were aſſigned to William Owings and Job Smith, who brought this ſuit againſt Gabriel Wood, to recover the money received by him under the deed aforementioned.

Judgment was confeſſed by the defendant below, ſubject to the opinion of the court on a caſe ſtated, of which the foregoing were the material facts.

The court gave judgment in favor of the aſſignees, to which judgment a writ of error was ſued out by the preſent plaintiff.

The only queſtion made by the counſel was, whether the deed, ſtated in the caſe, was an act of bankruptcy.

On the 4th of April, 1800, congreſs paſſed an act to eſtabliſh an uniform ſyſtem of bankruptcy throughout

the United States, which declares, among other things, that any merchant who ſhall, after the firſt day of June next ſucceeding the paſſage of the act, with intent unlawfully to delay or defraud his creditors, make or cauſe to be made any fraudulent conveyance of his lands or chattels, ſhall be deemed and adjudged a bankrupt.

It was admitted, in the argument, that this deed, if executed after the 1ſt day of June, would have been an act of bankruptcy, but that being ſealed and delivered on the 30th of May, it was not within the act, which only comprehends conveyances made after the 1ſt of June.

For the defendants in error, it was contended, that, by the laws of Maryland, a deed is not complete until it is acknowledged, and therefore this conveyance was made on the 14th of June, when it was acknowledged; and not on the 30th of May, when it was ſealed and delivered.

The Maryland act alluded to was paſſed in 1766, and declares, "that after the firſt day of May next, no eſtate "of inheritance or freehold, or any declaration or limi- "tation of uſe, or any eſtate for above ſeven years, ſhall "paſs or take effect, except the deed or conveyance, by "which the ſame ſhall be intended to paſs or take effect, "ſhall be acknowledged in the provincial court, or before "one of the juſtices thereof, in the county court, or be- "fore two juſtices of the ſame county where the lands, "tenements, or hereditaments, conveyed by ſuch deed "or conveyance do lie, and be alſo enrolled, &c. within "ſix months after the date of ſuch deed or convey- "ance."

The 5th ſection gives the conveyance, ſo acknowledged and enrolled, relation to the date thereof.

It is a well eſtabliſhed doctrine of the common law, that a deed becomes complete, when ſealed and delivered. It then becomes the act of the perſon who has executed it, and whatever its operation may be, it is his deed. The very act of livery, which puts the paper into the poſſeſſion of the party for whoſe benefit it is made, ſeems to require the conſtruction that it has become a deed.

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The queſtion now made to the court is, whether the act of the legiſlature of Maryland has annexed other requiſites to an inſtrument of writing conveying lands, without the performance of which, not only the paſſing of the eſtate, intended to be conveyed, is arreſted, but the inſtrument itſelf, is prevented from becoming the deed of the perſon who has executed it.

Upon the moſt mature conſideration of the ſubject, the opinion of the court is, that the words, uſed in the act of Maryland, which have been recited, conſider the inſtrument as a deed, although inoperative 'till acknowledged and enrolled.

The words do not apply to the inſtrument, but to the eſtate that inſtrument is intended to convey.

Since then the bankrupt law of the United States does not affect deeds made prior to the 1ſt of June, 1800, and this deed was made on the 30th of May, 1800, the court is of opinion, that the rights, veſted by the deed, (whatever they might be) are not diveſted in favor of the aſſignees of the bankrupt, and therefore, that they ought not to have recovered in this caſe.

Judgment reverſed—and judgment of *non pros* to be entered.

UNITED STATES *v.* SIMMS.

U. STATES v. SIMMS.

ERROR from the circuit court of the diſtrict of Columbia, ſitting at Alexandria, to reverſe a judgment rendered by that court for the defendant, on an indictment for ſuffering a faro bank to be played in his houſe, contrary to an act of aſſembly of Virginia.

The acts of congreſs of 27th Feb. and 3d of March, 1801, concerning the diſtrict of Columbia, have not changed

The indictment ſets forth that Simms, "on the 1ſt "April, 1801, with force and arms, at the county of "Alexandria, did ſuffer the game called the faro bank to