

No 122. only be liable to the creditors after count, but also for the annualrent thereof, after the intenting of the respective creditors their cause.

Gilmour, No 106. p. 79.

1671. November 22. BEATIE against ROXBURGH.

No 123.

BEATIE pursues Roxburgh as successor lucrative to his father, by a disposition produced, bearing for love and favour, and other good causes, redeemable by the father for forty shillings Scots. The defender *alleged*, That whatever was the tenor of the disposition, yet the true cause thereof was onerous, being granted for sums belonging to the son *aliunde*, intromitted with by the father, equivalent to the worth of the land, which uses always to purge this passive title, *quia debitor non præsumitur donare*.

THE LORDS found the defender lucrative successor by this disposition, the reversion making it evident to be a pure donation, and not given for any other cause.

Stair, v. 2. p. 8.

* * * Gosford reports this case :

ROXBURGH being pursued as successor *titulo lucrativo* to his father, in so far he had disposed to him a tenement, which did bear for love and favour, and wherein there was a reversion, bearing a power to redeem for payment of 20 shillings Scots, which tenement he yet possessed many years after his father's decease; it was *alleged*, That that disposition, albeit so conceived, could not make him successor *titulo lucrativo*, because he offered to instruct, that his father was debtor to him, by intromission with great sums of money left to him by his uncle on the mother's side, far exceeding the worth of the tenement, and the disposition being conceived in such terms as his father pleased, when he was minor, and *in familia*, it ought not to infer a passive title against him, which would make him liable to all his father's debts, he himself being a true creditor.—THE LORDS did find, that the disposition being conceived as said is, was a lucrative title, and made him liable to all his father's debts, which was very hard.

Gosford, MS. No 401. p. 202.

No 124.
Where there
is an onerous
cause, altho'
not fully equal

1676. February 15. HADDEN against HALIBURTON.

PATRICK HADDEN pursues George Haliburton as lucrative successor to his mother, by a disposition granted by her to him of lands wherein he was *alio-*