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a preference to one of the father's Creditors, before another, seeing they were all equally secured by the son's infestment :

In respect, it was *answered* for the father's Creditors who had adjudged, That they ought to be preferred to such as have done no diligence; because, the charge in the disposition, being only a restriction upon the son's right, and making no real right in favour of the father's Creditors, but only producing a personal action against the son, and that he could do no deed in prejudice of the said burden; but it leaves the father's Creditors among themselves, as if no such burden had been, to be ranked conform to their diligence; and this will be clear from a parallel instance, viz. the Creditors of the defunct, by the act of Parliament 1661, have a legal hypothec upon his estate, in preference to the Creditors of the apparent heir, provided the defunct's Creditors do diligence within three years; yet, nevertheless, if some of these should adjudge, and others not, the Creditors adjudgers would undoubtedly be preferred, and carry off the estates.

THE LORDS gave this instruction to the Clerks, that bonds wherein Members of Parliament are co-obligants, may be registered in common form.

*Fol. Dic. v. 2. p. 68. Forbes, MS. p. 72.*

1719. July —. The CREDITORS of COXTON *against* DUFF.

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A DISPOSITION of lands being granted, with and under the burden of the payment of all the lawful debts; it was contended, that this was only a personal clause, burdening the acceptor of the disposition, with payment of the debts, but not designed to make a real burden upon the lands. *Answered*, It is not presumed of any disponent, that he intends different things, when he says, with the burden of debts, and with the burden of payment of debts; it is not disputed, but the first makes a real burden, and so must the other. THE LORDS found it a real burden. See APPENDIX.

*Fol. Dic. v. 2. p. 66.*

1729. February 18. GEDDES *against* YOUNGER.

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IN a disposition by a father to a son, the question arose, if the father's debts were a burden upon the right, so as to be good against singular successors, or only a personal burden upon the disponent and his heirs? In the dispositive part, the clause was worded thus, "likeas, by acceptation hereof, the said George binds and obliges him, and his foresaids, to make payment to my lawful creditors of all my just debts;" and in the procuratory of resignation, "and the said George shall be obliged to pay to my creditors, my just and lawful debt, &c."