

No 18. Alexander Deuchar, and not in favours of the creditors to whom they stood engaged as co-principals or cautioners; Mr William Carmichael, as donatar to the escheat of Mr George Lesly, Sir Robert Forbes, and Alexander Deuchar, has right to Glass's obligation in the said back-bond, and not Wilson of Sands, who came in place of Mr Lothian, one of the creditors, proportionably to his interest.

*Fol. Dic. v. 1. p. 512. Forbes, MS. p. 25.*

No 19. 1729. February. GOLDIE of Haughyet against Mr ANDREW AITKEN, &c.

A PERSON disponed his estate in trust, and took the trustee's back-bond, obliging him to sell the same, and apply the price for satisfying the disponent's creditors, and the remainder to be applied to the disponent's wife and children. The lands having been sold in execution of this trust, a part of the price remaining in the trustee's hand, was confirmed by an executor-creditor of the disponent, as *in bonis defuncti*. It was found, that this confirmation could afford no ground of preference in competition with the other creditors, seeing there was somewhat further intended in this transaction than a bare commission to the disponent for the behoof of the disponent; the back-bond bore that the disposition was granted in order that the price might be applied to the creditors, which argued that the disponent had a view to his creditors, and was stipulating for their security. See APPENDIX.

*Fol. Dic. v. 1. p. 512.*

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SECT. IV.

Among third parties having an Interest, who is preferable?

No 20.

When an obligation given to clear incumbrances specifies some of them particularly by name, and then subjoins a general clause of all other incumbrances, those particularly named are preferable.

1635. February 5. KER against KNOWS.

IN this cause, which is mentioned January 29. 1635, No 36. p. 699, *voce* ARRESTMENT, it was *alleged* by KNOWS, that he could not pay to the pursuer the sums acclaimed, as being arrested in his hands, and as addebted to him by Craw; because, by the bond produced, whereby he is constituted debtor to the said Craw, it is provided, that the said Craw, his creditor, should pay, and employ the same for relief of two sums addebted by the said Craw to two of his creditors, who had served inhibition against the said Craw, their debtor, before the alienation of the land made by the said Craw to this defender (and