But in the clause of warrandice, it stood thus, " which right, I bind and oblige me to warrant from my own proper fact and deed, with the burden of my debts;" and in the precept of sasine, " under the reservation of my own liferent, and with the burden of my just and lawful debts." The father's debts were here found a real burden upon the subject disponed, and good against singular successors, though it was argued to be most express in the dispositive clause and procuratory, that this was a personal burden only upon the accepter, and that the subsequent clauses must be understood of the burden, as described at large in the foregoing principal clauses of the writ; a personal burden being as truly a burden in its nature as a real burden. See APPENDIX. No 64.

Fol. Dic. v. 2. p. 67.

1730, *July* —. CREDITORS of CALDERWOOD Competing.

CLAUSES burdening the subject disponed with the granter's debts in general, without mention of any particular debt, whether these debts become thereby real, debated, but not determined. No 65.

But thereafter it having been found in an appeal to the House of Peers, that such general clauses create no real burden; the LORDS ever since have been in use to determine according to the judgment of the higher Court. See APPENDIX.

Fol. Dic. v. 2. p. 67.

1731. *February* 12. BARCLAY *against* GEMMIL.

A FATHER disponed his estate to his son, with the burden of 5000 merks to his creditors, " conform to bonds granted to them." After he was denuded, he contracted several debts, for which he granted infeftments of annualrents, upon the lands formerly disponed to his son. In a competition betwixt a personal creditor for 1000 merks, prior to the disposition, and these annualrenters; it was *pleaded*, 1*mo*, That, by the son's infeftment, the father was denuded, and had it not in his power to lay any new burden upon the estate, over and above what he had laid upon it in favours of his creditors, existing at the time of the disposition; and if the debts did not amount to 5000 merks, it was so much gain to the son. 2*do*, Supposing this clause could be understood as a faculty, impowering the father to grant new securities upon the estate, so far as the 5000 merks was not exhausted by prior debts, still the debts, such as were existing before the disposition, were made real burdens upon the estate, equally as if they had been specially mentioned in the infeftment, which must prefer them to all posterior debts, though made real upon the estate by infeftment. No 66.