

1682. *January.* The CREDITORS of MENZIES of Enoch *against* ———.

No 71.

IN an action at the instance of the Creditors of Enoch *against* ———, the LORDS found, that an infestment of annualrent, granted by the common debtor, could not be sustained in prejudice of another creditor's adjudication, the infestment of annualrent being granted after citation was given to the common debtor upon the summons of adjudication.

*Fol. Dic. v. 1. p. 557. Sir P. Home, MS. v. 1. No 89.*

\* \* \* P. Falconer reports this case :

1682. *January 20.*—IN the competition betwixt the Creditors of Menzies of Enoch, there was compearance made for ——— Douglas, who had right to an annualrent out of the lands of Enoch from Sir George Lockhart, who was infest in the said annualrent from the common debtor, and who craved preference to ———, who had adjudged the said lands, upon the new act of Parliament anent adjudications. It was *alleged* for the adjudger, That he ought to be preferred ; because, by the foresaid act of Parliament, adjudications come in place of comprisings, and a citation upon an adjudication is equivalent to a comprising, and a charge against a superior ; and that he used his citation upon the adjudication before the granting of the infestment of annualrent, in so far as the citation was in April, and the right of annualrent was only granted in May thereafter, and that he was in a course of diligence.—THE LORDS, in respect of the citation, preferred the adjudger.

*P. Falconer, No 19. p. 10.*

1684. *January.* CARDROSS *against* SOMERDYCKE.

No 72.

IN the action at the instance of the Lord Cardross *against* Cornelius Vanarsan Somerdycke, the LORDS found, that a debtor could not make any voluntary right, or prefer one creditor to another, after citation, upon a summons of adjudication, no more than he could dispone lands, after denunciation, upon letters of apprising.

*Sir P. Home, v. 1. No 530.*

\* \* \* A similar decision was pronounced 1st February 1684, Anderson or Crichton *against* Anderson, reported by P. Falconer, No 83. p. 2857. *voce* COMPETITION ; and by Harcarse, No 117. p. 7050. *voce* INHIBITION.