

doubt. The President said that he was for having the petition answered till he considered the act of sederunt 1662, but none thought the interlocutor right.

No. 11. 1743, Nov. 2. ARMSTRONG *against* SIR D. CAMPBELL.

AN executor having letters of administration in Ireland here, was ordained to confirm before extract.—N. B. The pursuer did not oppose.

No. 12. 1743, Nov. 22. ANDERSON *against* ANDERSONS.

THE question was, Whether a discharge by a son to his father, his heirs, executors, and successors, of certain intromissions with effects of the sons, and of his bairns part of gear, and of all he could claim of or from him and his foresaids by and through his decease, or for any other cause or occasion whatsoever, did exclude the son from succeeding in the dead's part? The Commissaries found that it did exclude him. But upon Arniston's report we found it did not, as we found in a like case 30th June 1741, Pringle *against* Pringle.

No. 13. 1744, Jan. 3, 13. CREDITORS of MR MURRAY, *Competing*.

THE Lords unanimously found that the lodging the money in Chalmers's hands did not put it out of Mr Murray's power, and that it remained *in bonis* of Mr Murray, but found sufficient evidence that the bill of L.288 was of the proceeds of Sir James Rothead's executry, and therefore found the creditors and nearest of kin of Sir James Rothead preferable to the creditors of Murray the executor; and adhered to the interlocutor as to Gordon's bill of L.120 sterling, allowing him retention; and as to the question with Miss Murray as to the household furniture, there the chief question was anent Miss Murray's right of redeeming the household furniture, whether the creditors can take the benefit of it. The point anent the L.288 bill Arniston said never was pleaded, and gave his opinion for the alteration, and 13th January Adhered as to the L.288. I was in the Outer-House.

No. 14. 1744, Feb. 10. LORD NAPIER, &c. *against* HAMILTON, &c.

THE Lords found that the cautioners ought to have credit for debts paid by Mr Thomas Menzies before confirmation, notwithstanding he had intromitted with other moveables of the defenders without title, and that the creditors were not bound to instruct these intromissions exhausted.

No. 15. 1744, Nov. 27. CREDITORS of MURRAY *against* HIS RELICT.

MARQUIS ANNANDALE being debtor by an open account to Hugh Sommerville, his Commissioners gave a precept on his factor to pay the money to Mr Geddes and Mr Murray, they giving their discharge. Mr Murray had confirmed his wife executrix to her father, but did not give up this and his own agent-accounts, and Mr Murray died before the money was paid. His relict and Mrs Geddes afterwards eiked this to the testament, and compete