

No. 15. 1748, June 22. CATTO *against* GORDON.

CATTO by his testament appointed Catto, &c. his executors with the burden of certain legacies, and then he legates to another William Catto 400 merks out of the money that shall arise on the sale of his houses and feu in Ellon, and the like sum to another Catto; and on the above conditions and restrictions he appointed and constituted the said persons, his uncles, his executors and universal legatars, in all and hail his stock and fortune; these were the words.—These houses had never been sold, and the question was, Whether the executors were liable to make good the two sums out of the executry, though they have no right to the houses or feu, out of the price whereof they were payable? Mention was made of the legatars' relation, but it was so remote that we laid no weight on it. On the question we found the legacies due, if there is so much free executry, *renit.* Arniston, Kilkerran. Leven did not vote.

No. 16. 1748, Dec. 7. ROBERT LECKIE *against* DAVID RENNIE.

See Note of No. 21. *voce* TUTOR, &c.

No. 17. 1749, Feb. 25. DAVIDSON, &c. *against* EXECUTORS OF MURRAY.

THE defunct, the son of Lord Edward Murray, by a codicil legated several particulars of furniture to Mrs Davidson, &c. who sued before the Commissaries to have them delivered up to them after being valued, on caution to repeat in case the executry be exhausted by debts. The Commissaries had found that they must make a special title; but on advocacy we found they must be delivered on caution without any further title.

No. 18. 1752, Dec. 22. EMILIA BELCHIES, &c. *against* SIR P. MURRAY.

IN 1738, Mr A. Murray disposed his estate, what he then had, or should have at his death, failing heirs of his own body, to his nephews John and Thomas Belchies, with sundry substitutions, and burdened them with several legacies, *inter alia*, to Emilia Belchies, his niece, of L.300 sterling, payable at the first term of Whitsunday or Martinmas after her marriage, with penalty and annualrent from the term of payment, and an annuity of L 15 sterling yearly, commencing at the first term of Whitsunday or Martinmas after his death, until the L.300 should become due. In 1740 he altered his disponees, and disposed the whole to Sir Patrick Hepburn Murray, his nephew, but with the burden of all his legacies granted or to be granted, particularly those in the former deed, which he declared he noways intended to revoke. Thereafter Emilia Belchies was married to Oliphant, and had two sons; and in 1744 Mr Murray, without any mention of the former legacy, granted a bond (revokable) of L.1200, payable after his death, with penalty and annualrent to the said Emilia in liferent, and her two sons, in trust for themselves, and the other children to be procreated of that marriage in fee, whom failing, to the husband and his heirs of any other marriage, whom failing, to his own heirs and assignees, excluding the husband's *jus mariti* and his right of administration, with power to the mother, and failing her, the father, to divide among the children. Sir Patrick was