

bring in the same into the equal division of the goods between the two brothers, in case the disposition were reduced *quoad* an half; but it carried *ut supra*.

No 31.

*Fol. Dic. v. 1. p. 545. Fountainhall, v. 1. p. 753.*

1721. January 18.

LADY BALMAIN *against* GRAHAM.

No 32.

A DISPOSITION by a husband to his wife of the stocking that should be upon his mains the time of his decease, being quarrelled by his children, as in prejudice of their legitim, being of a testamentary nature, revocable, as not having been a delivered evident; it was *answered*, That the form of the disposition is *per modum actus inter vivos*, whereby a present right is conveyed, though suspended till the granter's death, and being done *in liege poustie*, it cannot be reached by the law of death-bed, and there lies no other bar to the father's power of alienation; *2do*, This is a rational deed, an additional provision to a wife, and not of that nature as to admit of a construction that it was intended to disappoint the children of their legitim. THE LORDS found the goods disposed belonged to the Lady *tanquam præcipuum*. See APPENDIX.

*Fol. Dic. v. 1. p. 545.*

1728. February.

MARION HENDERSON, and HUGH CAMPBELL, her Husband, for his Interest, *against* DAVID HENDERSON.

CLAUD HENDERSON, merchant in Glasgow, having a son and three daughters, made a disposition of his whole heritable and moveable estate to his son; wherein, 'for the love and favour he had to him, he, the said Claud Henderson, in case it should happen him to depart this life before his said son, gives, grants, and disposes to him, his heirs, executors, &c. all and whatsoever debts, goods, gear, lands, heritages, &c. belonging or competent to him, or what he should thereafter purchase or acquire.' Then follows a clause, empowering the said son 'to procure himself served heir of line in special and in general to his father, and to obtain himself executor decerned and confirmed to him;' and he thereby nominates his said son 'his sole executor and universal legatar, and intromitter with his goods and gear whatsoever.' Of the same date, he grants bonds of provision to his daughters, which he declares, 'should be in full satisfaction of all they could anyway claim by his decease.' The other daughters resting satisfied with their provisions, Marion, the youngest, rejecting her bond, intended a process against

No 33.

A father, by any deed to take effect only after his death, (tho' not on death-bed,) cannot disappoint his children's legitim.