

No. 26. 1666. *November 24.* GOVAN *against* PAIP.

IN the case, the Lords found, That an assignation not being intimated in the cedent's time (and consequently the debt being *in bonis defuncti*) ought to be confirmed; but the Lords, in consideration that the debt was small, found process at the assignee's instance, he finding caution for, the *quot* effeiring thereto.

Fol. Dic. v. 2. p. 368. Dirleton, No. 51. p. 21.

No. 27. 1683. *March 14.* SANDILANDS *against* SANDILANDS.

THE Lords found, (against the interest of the Commissaries), That an assignation made on death-bed, and intimated then, where there were neither a relict, children, nor creditors, (whom he cannot defraud on death-bed), secluded confirmation, unless the assignation bore, that, upon his recovery, it should come back to his person again.—And yet such rights may be easily made in defraud of the Commissaries quot. See Act 26. Parl. 1690.

Fol. Dic. v. 2. p. 368. Fountainhall, v. 1. p. 225.

* * P. Falconer's report of this case is No. 23. p. 3202. *voce* DEATH-BED.

No. 28. 1729. *January.* GORDON *against* CAMPBELL.

CAPTAIN George Campbell, in his testament, having legated to his wife the special sum of £1000 Sterling, due by Campbell of Calder to him by bond, it was found, That this, being a special legacy, needed not confirmation. See APPENDIX.

Fol. Dic. v. 2. p. 368.

SECT. V.

Whether requisite where the Subject is in the Possession of the Heir or Executor?—Whether the Father's Possession the same with the Child's?

No. 29. 1610. *January.* BLACKBURN and his SPOUSE *against* RIG.

IN an action pursued by Samuel Blackburn, and Janet Adamson his spouse, as heir to John Adamson, her father's brother's son, *contra* William Rig, for intromis-