

1741. *February 17.* HAY *against* CUTHBERT of Castlehill.

No. 8.

THE heir is not liable for provisions left in the proper and bare words of a legacy "I bequeath" though *in liege poustie*; but having intromitted with subjects destined *in liege poustie* for payment of debts and these provisions, he was found accountable for the application of these subjects in terms of the destination.

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1741. *June 4.* PATERSON and MILLER *against* PATERSON.

No. 9.

A TESTATOR having appointed trustees for certain uses, and *inter alia*, to pay to the legatees therein after mentioned, their heirs, executors and assignees, certain sums of money, and thereafter named the legatees and sums, but without the addition in that part of the deed, of their heirs, executors, or assignees; one of the legatees predeceasing the testator, the legacy was found to fall by his death. *2dly*, Certain subjects being left to two of them equally, and one of them predeceasing, there was found to be no *jus accrescendi*. *3dly*, The testator among other things having legated his household furniture, the legatee was not found to have right to such of the furniture as belonged to the executors of the testator's wife, who predeceased him, as her share. (See DICT. No. 24. p. 8070.)

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1742. *February 12.*

PRESBYTERY of KIRKCUDBRIGHT *against* BLAIR, of Dunrod.

No. 10.

A SPECIAL LEGACY is effectually revoked by the testator's uplifting the sums legated, but not by the most express orders to his doers to uplift these sums, and to apply them in payment of particular debts due by him, if the money was not actually paid during his life.—The last part altered, and orders found sufficient. (See DICT. No. 24. p. 8066.)

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1742. *July 27.* LAUDER of Winepark *against* JACK.

No. 11.

LEGACY being made of a bill of L.40 sterling, whereof the testator afterwards got payment, after his death the money was found in his landlady's hands, who swore that he gave it to her to be applied in payment of the legacies, whereof her own son was to have one. The Lords found the legacy revoked, and that it could not be again constituted by witnesses.