

No 69.

ed by the said Earl to the pursuer, so as effectually to give her security, in the said heritable bond of L. 20,000 Sterling, and infestment following upon, for security and payment to her of the said L. 15,000 Sterling, and interest thereof, and penalty, if incurred; but not to affect the defender's person, nor his other estate.

Reporter, *Lord Minto.*Act. *A. Lockhart & R. Dundas.*
Clerk, *Forbes.*Alt. *Ja. Ferguson & Jo. Grant**Fac. Col. No 7. p. 10.*

No 70.

1757. *December 1.* GORDON *against* MAITLAND.

FOUND, That a service as heir male upon a deed of entail, but without reciting the prohibitory clauses, does not infer an universal passive title.

*Fac. Col.*** See this case, *voce* TATLZIE.

No 71.

1760. *November 19.* HALL *against* BUCHANAN.

A creditor pursuing a decree of constitution in common form against the son of his debtor, who, in obedience to the order of the Court, had made up titles to his father's estate, and disposed the same to assignees, under a commission of bankruptcy; it was *urged*, That he could not renounce to be heir, and ought to be subjected *passive* to the debt pursued for. THE LORDS found no passive title was incurred. See APPENDIX.

Fol. Dic. v. 4. p. 42.

No 72.

How far a residuary legatee, accepting a sum of money for a conveyance of his right, is liable to that extent for the testator's moveable debts.

1782. *November 19.* SAMUEL BROWN *against* PETER BLACKBURN.

By the death of Dr Brown of Jamaica, his personal estate in that island, after payment of his debts and certain legacies, devolved to Mr Blackburn, in the character of residuary legatee, his real estate there, to Patrick Brown, as his heir at law; and a debt due to him, which was secured by infestment in Scotland, to Samuel Brown, as his heir of conquest.

A transaction took place between Mr Blackburn, the residuary legatee, and Patrick Brown, the heir in Jamaica; by which, for the sum of L. 1000 Sterling, the former sold to the latter his interest in the personal estate.

It however soon appeared, that the subjects falling under this transaction were inadequate to the payment of the Doctor's debts; and a personal creditor