

## SECT. IV.

## Forisfiliation.

1561. *February 23.*Sir WILLIAM HAMILTON *against* JOHN WALLACE of Craigie.

No 16.

GIF any man havand ane lauchful wife, and in like manner lauchful bairns gottin of his bodie, the quhilkis bairnis ar all forisfiliat befor his deceis, all his movabill gudis and geir pertenant to him the time of his deceis, sould be dividit equallie in twa partis, viz. the deidis part, and the wife's part; because the bairnis, beand forisfiliat, sould have na part nor portioun thair of.

*Fol. Dic. v. I. p. 544. Balfour, (TESTAMENTS.) No 9. p. 218.*

No 17.

1687. *December 8.*RUSSELS *against* BROWN.

FORISFILIATION of a daughter by marriage, found not to prejudice her portion-natural, unless discharged by her, although she got a tocher, which only obliged her to collate with the other children.

*Fol. Dic. v. I. p. 544. Harcarse. Sir P. Home.*

\*.\* This case is No 15. p. 8177. *b. t.*

\*.\* The like, where the question was betwixt the daughter and the relict, 11th December 1719, Lady Balmain *against* Lady Glenfarquhar, No 14. p. 2378., *voce* COLLATION.

No 18.

1766. *July 19.*SPENCE *against* STEVENSON and Others.

Notwithstanding of a provision in full of legitim, the grantee continuing a bairn in the house, her right to bairns part found entire, as against her father, except in competition with her sisters.

A BOND of provision was granted to a daughter 'in full of all she could claim as legitim, bairns part of gear, or otherwise whatsoever; provided nevertheless, that she shall be a bairn in my house, and have a part of my goods and gear the time of my decease, my other daughters being first as well provided.'

The granter had no other daughters; but, by a testamentary deed, he vested his moveables in trustees for behoof of his daughter and her children, payable at their majority or marriage; which, on their death, before either of these events, were to devolve upon certain persons particularly mentioned.

"THE LORDS found, that the clause in the bond of provision, by which the daughter accepts of it in full of her legitim or bairns part of gear, but under