

1743. *February 18.* LAURIE *against* EXECUTORS of his WIFE.

WIFE'S share of moveables,—in case of her predecease, her executors not excluded by a clause in her contract of marriage, accepting provisions in satisfaction of all that she, her executors, or nearest of kin, could claim by or through the decease of her husband: But afterwards altered, and the executors found excluded.

No. 17.

1743. *July 20.* M'WHIRTER *against* MILLER.

A WIFE dying before her husband, if her children attain possession of her share of moveables, they need no confirmation, but they can test on them, and they will fall to the children's nearest of kin, and not to the mother's; and her eldest son having survived her five or six years, and till he was 25 or 26 years, and lived in family with his father; and it being proven that he had cattle of his own that he was in use to dispose of, separate from his father's; that was found sufficient evidence of his attaining such possession, and that defence sustained to the husband after his son's death, who left him universal legatar, against his wife's sister. *Vide* NEAREST OF KIN. (See DICT. No. 38. p. 14395.)

No. 18.

1743. *November 29.* A. *against* B.

EXECUTRY devolving to a wife, the husband served an edict in her name and his own for his interest. The wife gave in a disclamation, whereupon the Commissaries stopped; but on advocacy we remitted, with instruction to proceed in the confirmation, but with instruction that the husband find caution not only in common form, but specially to keep the wife skaitless. Lord Minto Reporter from the bills.

No. 19.

1744. *January 5.* CRAWFURD *against* CAMPBELL.

THE question, whether a wife be a habile witness against her husband in civil cases, was determined, and by a narrow majority she was found not habile even to prove a bargain of sheep. *Vide* Cameron *against* Lawson; No. 24. *infra*.

No. 20.