

1770. November 28. ELIZABETH and ISOBELL CAMPBELLS *against* GABRIEL CAMPBELL.

SUCCESSION.

The Heirs of the Disponee, though he predeceased the Disponer, preferred in the succession to the Disponer's other nearest Heir.

[*Faculty Collection, V. 147 ; Dictionary, 14,949.*]

ALEMORE. A disposition to a man and his heirs will not be evacuated by the predecease of the man.

KAIMES. We must suppose that the disponee has a right, but still defeasible during the disponer's life.

PITFOUR. A deed is no less a deed *inter vivos* because I keep it in my pocket. The right is vested in one *ignorans et non sciens*.

PRESIDENT. We would shake the security of many land rights, were we to alter the judgment of the Ordinary.

HAILES. This is a foolish, vain deed ; but there is no law prohibiting foolish, vain deeds.

On the 28th November 1770, the Lords " preferred the heir-male ;" adhering to Lord Monboddo's interlocutor.

Act. A. Elphinstone. Alt. D. Rae.

1770. December 5. MRS MARGARET PORTERFIELD *against* HOUSTON STEWART NICOLSON of Carnock.

WITNESS.

The Adulterer is a competent witness upon the part of the Pursuer in an action of Divorce. A Negro Slave, not a Christian, may be received as a witness. Objection of Relationship, *proditii testimonio*, and agency.

[*Faculty Collection, V. 158 ; Dictionary, 16,770.*]

[As this question is curious and interesting, and as I took considerable pains in making a distinct report, I shall transcribe it at large from my notes.]

Mr Stewart Nicolson of Carnock insists in an action of divorce, for adultery, against his wife, Mrs Margaret Porterfield.