

## L E G A C Y.

1624. February 13.

HELEN CUNNINGHAM'S CHILDREN *against* THOMAS M'MICHAEL'S EXECUTORS.

No 1.

HELEN CUNNINGHAM, spouse to Thomas M'Michael, left 4,000 merks to her grand-children, to be employed for their behoof, at the sight of Thomas M'Michael her husband, David Johnston, Mr John Hay clerk of Edinburgh, and of their own parents, John Hunter and Margaret Johnston. It happened 2,000 merks of this to be put in James Dalzell's hands by all their advices and consents, except Mr John Hay's, who was not at home at the time. The Children having pursued the Executors of Thomas M'Michael for it;—"THE LORDS found that it was not employed as it should have been for want of Mr John Hay's consent, and therefore made the Children be answered."

*Spottiswood, (LEGACIES.) p. 194.*

1627. February 20.

JOHN BISSET and his CURATORS *against* JOHN and ROBERT BISSET.

UMQUHILE George Bisset, by his latter will, leaves an universal legacy of all his moveable goods to John Bisset, his brother's grand-child, and nominates John Bisset, his brother's son, father to the legatar, executor. Afterwards, John, the executor, by contract and appointment between him and Mr Robert Bisset, divides the whole moveable goods of the executry between them, by virtue whereof, Mr Robert intromitted with the just half thereof; whereupon the friends of the mother's side to the said legatar, finding him prejudged by this transaction, raised a summons at the grand-child's instance, and their own, as curators to him, against his father (who was executor confirmed) and Mr Robert, to hear and see the foresaid contract rescinded, as being *super re aliena*,

No 2.  
An universal legatee found entitled to prosecute the debtor, although there was an executor confirmed.