

S E C T. III.

Is Reduction requisite of Decrees-dative ?

No 9. 1627. *February 27.* ROSS *against* KELLIE.

A DEFUNCT'S only child pursuing her stepmother as executrix, for her bairn's part, viz. the third of all, the LORDS sustained this action, although there was a standing confirmed testament, where the division was only made *bipartite*; but they found no necessity of reduction here, because the daughter was not called to the said confirmation.

Fol. Dic. v. I. p. 169.

* * * See The particulars of this case, No 2. p. 2366.

No 10. 1707. *December 10.*
JAMES LEES, Merchant in Glasgow, *against* ROBERT DINWOODIE, Merchant there

THE debtor of a defunct assoilzied in a pursuit at the executor's instance, by compensation upon a debt due by him to the defunct, being reconvened on the same account by another executor, who offered to improve *incidenter*, the execution of the edict whereupon the first confirmation proceeded, the LORDS found, that the defender was not obliged to abide by the verity of the execution, and that improbation was not competent in that state of the process.

Fol. Dic. v. I. p. 169.

* * * See The particulars of this case *voce* EXECUTOR.

No 11. 1709. *December 6.*
JOHN HAMILTON of Bangour, *against* The LADY ORMISTOUN, SIR JOHN INGLIS and his SISTERS.

No 11.
A party being decerned executor-dative, *quia* nearest of kin, when there was nearer, the Lords

IN the action at the instance of Bangour, as executor-dative *ad omisssa, qua* nearest of kin to Sir William Hamilton of Whitelaw, against the Lady Ormistoun, and her children of the first marriage, as debtors to the defunct, whose debts had been omitted in the principal testament confirmed by the Lady Houshill;