

1665. *December 23.* BURNET *against* LEPER.

No. 62.

AN heir-portioner is liable *primo loco*, only for her own share till the rest of the heirs-portioners be discussed; but the Lords determined not, whether those who were *solvendo* should be liable *in solidum*, although the debt exceeded their proportion, or only *in valorem*.

*Fol. Dic. v. 2. p. 381. Stair. Dirleton.*

\* \* This case is No. 78. p. 5863. *voce* HUSBAND and WIFE.

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1680. *June 25.*

GEORGE BROWN of Horne *against* the LADY BALLEGARNO.

No. 63.

A reduction of a Sheriff's decret decerning her to pay a sum contained in her father's bond, on this head of injustice, that she was but one of two sisters heirs-portioners, and yet was decerned for the whole. Answered, She had the whole estate, the one half as heir of line, and the other by a disposition from her father, and so was as his heir of tailzie and provision, and her sister had only a bond of provision in satisfaction of all she could crave. Yet the Lords reduced, and found the second sister ought to be also called and discussed, in case there were any thing whereto she might succeed as heir of line.

*Fol. Dic. v. 2. p. 382. Fountainhall MS. p. 214.*

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1635. *December.* DAVID OSWALD *against* JAMES SOMERVEL.

No. 64.

THE Lords found, That one of two of heirs-portioners having renounced, the other could not be liable for the predecessor's debt *in solidum*, but only *pro rata*; and that the creditor behoved to do diligence against the estate for the half of his debt.

*Fol. Dic. v. 2. p. 381. Harcarse, (AIRS) p. 12.*

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1687. *July.* JORDANHILL *against* EDMISTON.

No. 65.

THE Lords suspended a decret in absence against three heirs-portioners, who were all called; because they were all decerned *iq solidum*, and not *pro rata*, which was *fiars judicis*.

*Fol. Dic. v. 2. p. 381. Harcarse, (AIRS) p. 13.*