

to accept and discharge in satisfaction of all, and, for that effect, make up a title to their brother's part, the Town of Edinburgh always relieving them of any debt of Sir Peter's, or incumbrance that may reach or affect them, by their confirming themselves executors to him."

No 16.

1684. February 8.—IN Sir Bernard Davidson's cause with the Town of Edinburgh, (mentioned 22d January, 1684,) the LORDS, having caused some of their number try him, by converse and discourse, if he was an idiot, or furious, they found him neither fatuous nor mad, but that he is only sometimes epileptic; and found, though he was interdicted as a simple youth, yet this being a moveable sum, and no heritage, that he needed not the consent of his interdictors to the uplifting thereof.—See PROOF.

*Fol. Dic. v. 1. p. 479. Fountainhall, v. 1. p. 263. & 269.*

1685. March.—

IRVINE against M'BRAIR.

No 17.

FOUND, That interdicted liferenters may dispone their liferent, without consent of the interdictors, seeing the *jus formale* of the liferent is not disposed, but only the *ususfructus*, which falls under the party's single escheat.

*Fol. Dic. v. 1. p. 479. Harcarse, (INTERDICTION.) No. 645. p. 178.*

1685. December.—

RANDERSTON against M'INTOSH &amp; DRUM.

No 18.

THE Laird of Humbie, who had voluntarily interdicted himself to some friends, having disposed the barony of Crichton, with consent of the interdictors, to Sir William Primrose, who was obliged, by the disposition, to pay some preferable creditors, and to pay in the rest to Humbie, without any quality, that it should be disposed of by the appointment of the interdictors, Humbie's personal creditors arrested in Sir William Primrose's hand, and pursued a forthcoming.

The consent of the interdictors essentially requisite to warrant alienation.

*Alleged* for the defenders, That the price being moveable, it did not fall under the interdiction; and the interdictor's consent not being qualified, all creditors had equal access according to the diligence; and any consent of the interdictors, to prefer any one personal creditor to another, after the disposition, was *a non habente potestatem*; much less could a consent, after the diligence of arrestment, prefer another creditor, who had done no diligence.

*Answered*, The design of interdiction being for binding up the prodigal's lands, the interdictors may dispose of lands in satisfaction of just and necessary debts; and their disposition imports a quality, (though not expressed.)