

No. 33. 1749, Nov. 24. MRS TOD *against* EARL OF SUTHERLAND.

THE Countess of Sutherland was debtor in an account of millenery goods in January 1742 in L.48 sterling, and afterwards granted a bill payable at Candlemas 1743. A process was brought before me for the principal and annualrent against Earl of Sutherland, and I decerned for principal and annualrent from Candlemas 1743; but upon a reclaiming bill the Lords found no annualrent but from the time that payment was demanded from Earl of Sutherland.

No. 34. 1750, Jan. 16. RIDDELL *against* INGLIS.

A HUSBAND making a settlement to his wife and children, which contained certain provisions in both events of his own and his wife's predecease, he became bound to pay to them certain sums at their majority or marriage, and in the mean time to aliment and educate them. He gave this settlement to his wife, and sometime after she lodged it with a friend for the childrens behoof, and soon after died. The only surviving daughter made a runaway marriage and assigned her provision, who sued the father, and his defence was that the deed was not delivered, and that delivery to his wife was no delivery, her custody and possession was his, and she could not deliver it without his consent; but we found it a delivered evident, *renit. multum* Kilkerran,—3d January 1750. My chief reason was, that the obligation in case of the wife's predecease to pay portions in his own life to his children, and in the meantime to aliment and educate, must be intended to be binding on him in his own life, and could not have been given the wife *custodiæ causa* since it was to take effect only in the case of her predecease; and this day we adhered,—16th January.

No. 35. 1750, Dec. 6. LADY LECKIE *against* MOIR of Leckie.

IN this question of separation and aliment brought before us by advocacy from the Commissaries, who had found sufficient circumstances and qualifications to infer separation and aliment, and which we first decided 8th June last, and altered the Commissaries judgment, refused the bill, but remitted with instruction to find there was no sufficient cause of separation, but was neglected by me to be then marked;—it was again brought before us by a reclaiming bill for the Lady, and after answers we appointed a hearing and heard the lawyers these three days past, and though when the case was last before us I was against the separation, yet in further considering the case I altered my opinion. I thought that the Lady having on her husband's information been represented to the world as a monster of nature for lasciviousness and a reproach to her sex, and which scandal has by the husband and his counsel in all their writings and pleadings been maintained to be true, though they said it was impossible to prove them,—I thought it impossible that thereafter they could live together as husband and wife, that he could wish to take her again into his bosom, or that she could live with a man who in effect declares that she is unworthy of living, and who had for ever debarred her from the society of every modest woman who would believe him: That though his justification from the imputation of impotency wherewith she is said to have reproached him to one or two of her