

'sonal estate; and that they shall not be descendible to heirs, as *sua natura* No 49.
'they were.'

THE COURT found, That the subject in question was moveable, and fell under the right of *legitim*.

For Mr Hog, *Lord Advocate.* Alt. G. Fergusson. Clerk, Sinclair.

S. *Fol. Dic. v. 3. p. 265. Fac. Col. No 196. p. 407.*

SECT. IX.

Obligations to lay out money on heritable security.

1586. November. HAMILTON against LAMB.

THERE WAS a woman callit Hamilton that persewed ane Lamb and Gilbert Dick in Edinburgh for a certain soume, the whilk the said Lamb's father was bund and obliged in ane registrate contract to lay upon land to the weilfare of the persewar, wha was his spouse, and to the bairns gotten, or to be gotten betwixt them, and so he being aire and eldest son to his father, ought to deburse the said soume, according to the contract whereintill his father was bund.—It was *answered*, That the persewar was executrix and intromissatrix with her husband's geir, and so the aire could not be persewed, while she and her intromission were first discussed, or at the least for the one half, according to her intromission. To the whilk it was *answered*, That the bond and obligation was made upon money to be laid upon land *et sic propter destinatum usum*, whilk was in sasine of land, the money that was ordained be this bond could not be holden moveable goods or geir, *sed quasi immobile et onus hereditarium*, for the whilk it behoved the aire to be persewed, and not the executrix and intromissatrix with the moveable goods.—THE LORDS fand be interlocutor, That the aire might be convened and not the executrix.

Fol. Dic. v. 1. p. 369. Colvil, MS. p. 410.

1628. March 14. GRAHAM against FINNIE'S HEIRS.

IN an action by Graham, relict of Finnie, against the heir and executors of her husband, and also against her husband's debtors, particularly called in the summons, to hear and see the debtors decerned to pay to her the profits of cer-

No 50.

A husband became bound to employ upon land a sum to his wife. Found, that after his death this sum was due by his heir, and not by his executor. The reverse of this found, Graham against Finnie's Heirs, No 51, *infra*.

No 51.

Found, (the reverse of Hamilton against Lamb,