

HEIR CUM BENEFICIO.

1736. *Feb. 17.* Mrs ANN MURRAY *against* PATRICK CRAWFURD.
 1738. *July 11.* CRAWFURD *against* YOUNG; and STRACHAN'S CREDITORS *against* His DAUGHTERS.

No. 1.

THAT heirs *cum beneficio* cannot stop a sale at the instance of their predecessor's executors, was first found 4th July 1735, but they afterwards altered that judgment, and found that the sale could not proceed against the heir *cum beneficio*, who was found liable only for the proven value, 25th November 1735, 17th February 1736 *inter eosdem*. The Lords, after long and full deliberation, altered the above judgment, and now found that the creditors have a right to bring the estate to a sale, notwithstanding of the offer by the heirs of the proven value, and that in two different cases, viz. Margaret Crawford, Relict of Young of Killicanty, against Alexander Young; and Creditors of Strachan of Glenkindy against His Daughters, 11th July 1738. (See DICT. No. 15. p. 5346 and No. 16. p. 5348.)

1738. *November 28.* CREDITORS of M'DOUALL of Crichen, *Competing*.

No. 2.

THOUGH the heir *cum beneficio* was found liable only for the proven value, and not to allow the estate to be sold, yet in the competition of his creditors, the Lords found that neither the priority of their citation of the heir, nor constitution against him, gave them any preference, but that such as had affected the estate were preferable according to their diligence, and all the rest *pari passu*. *Vide inter eosdem voce* EXECUTOR. (See DICT. No. 17. p. 5348.)

1741. *June 19.* CREDITORS of M'DOUALL of Crichen *against* CRICHEN.

No. 3.

HAVING proved the value of the estate, and the competition of the creditors having depended already seven years, during which the heir *cum*

No. 3. *beneficio* retained the price and whole annualrents, the Lords appointed a factor or sequester, and ordained the price to be paid to him to be employed profitably for behoof of the creditors. *Vide inter eosdem voce* EXECUTOR.

No. 4. 1742. November 12. MENZIES *against* DICKSON.

AN apparent heir disposing lands to which he had not made up his title, after his death the next heir served heir *cum beneficio* to him in lands wherein he had died infest, but passed by him and served heir to a remoter in the lands disposed by him, and to which he had not made up his title, and pursued reduction of the disposition in so far as it was gratuitous; but it was found, that an heir *cum beneficio*, though the inventory were exhausted, cannot quarrel deeds by his predecessor, to whom he is served heir, though *cum beneficio*. *Vide inter eosdem voce* SUPERIOR AND VASSAL.

No. 5. 1749. July 12. Sir KENNETH M'KENZIE, *Supplicant*.

AN heir being at such a distance when his predecessor died, that he could not record the inventories of his estate within the year, and the Sheriff's-clerk scrupling to receive them after the year, we authorised them to be recorded, but reserved to all parties having interest to be heard on the effect of such recording.

See NOTES.