

and conveyed it to his son in his contract of marriage, who died before; and they two contracted large debts, so that a ranking and sale was pursued; and at last after Nathaniel's death, compearance was made for his grandson Alexander, by Alexander his son, who insisted that his grandfather had incurred the irritancies, and therefore the estate should be declared to belong to him free of the contraventions. Answered, That in case of contravention, the estate was not to descend to him but to the next substitute, for Nathaniel forfeited for himself and all the heirs of his body. Replied; only the person contravening forfeited, for the meaning of the clause was that the persons contravening, and their heirs contravening, shall lose and amit, &c. The Lords, on report of Kilkerran, found that Nathaniel forfeited for himself and the heirs of his body, and therefore that Alexander cannot quarrel the creditors' debts. 21st June 1749. This case was on a reclaiming bill heard in presence, 14th November 1749, where the questions were two, 1st, Whether Nathaniel Gordon forfeited for himself and the heirs of his body? 2dly, Whether that is competent to the creditors? William Gordon, a remote substitute, compeared and said he had an interest to compear and oppose the sale. Adhere to the first, and find that he, (Alexander Gordon) cannot object to the creditors, but remit William's claim to the Ordinary,—(*quod vide* No. 51.)

No. 38. 1749, Nov. 24. BRODIE *against* FOUR SISTERS OF GORDON.

FIND the heirs of line have right to the estate of Pitgaveny, and not the heirs-male, and prefer them,—unanimous.

No. 39. 1750, Nov. 13. CLAIMS OF CAPTAIN GORDON ON THE ESTATE OF PARK.

THE questions were two, 1st, Whether one of our strict entails duly executed, recorded, and infestment on it, forfeited by the attainder of Sir William, the heir of entail? 2dly, Whether an irritancy incurred by him, by granting infestment on a part of the estate, (but which probably he knew not to be part of the entailed estate) before his attainder, but not declared, made the estate to go immediately to the next heir, so as to bar the forfeiture? The President stated a third point, that though entails are not sufficient to bar the forfeiture as to the descendants of Sir William, yet that the claimants claim may be good as a remainder-man. (I think it is rather, speaking properly, agreeably to the English law, a reversion.) First we found that Sir William forfeited only for his own life; *Renit.* President, Justice-Clerk, and Leven. Then found 2dly, he had good claim as a remainder-man, after failure of issue of Sir William Gordon, *nemine contradicente*; but it was agreed that in extending the interlocutor this second point should be the first part. 3dly, We disallowed the claim as founded on the irritancy already incurred. *Renit. tantum* President. *Vide* full copy of the interlocutor on Lord Advocate's information *in fine*. But reversed in Parliament 21st May 1751. (*Vide* the judgment in the the text.) —13th November 1750.

In consequence of the judgment of the House of Peers reversing our sentence marked 13th November 1750, in Captain Gordon's favours, he presented a new claim of the estate, for that Sir William Gordon is now dead, and though he has left issue-male two