

No. 11. 1740, Feb. 26. LORD DAER *against* LORD HAMILTON.

ANNUALRENTS payable at Candlemas and Lammas :—Earl of Selkirk dying in April, I had found all annualrents preceding Candlemas moveable, and all the rest to belong to the heir,—as we did Nov. last betwixt Sir James Rothead's heirs ; and the Lords adhered unanimously, and refused a bill without answers.

No. 12. 1741, Feb. 11. ALLAN *against* WILLIAMSON.

THE question here occurred to the Lords (though not in the bill) whether a liferent assigned descends to the assignee's executor or to his heir ; and some of us, particularly Arniston and I, inclined rather to the last, as having a *tractus temporis* ;—and though it would fall under single escheat, yet that has no consequence ; for so would tacks short of liferents,—so also would the superior's right to his vassals liferent escheat,—and yet it would not go to his executor but to his heir. But as this had not been argued before the Ordinary we remitted the cause to him. *Vide Omnino Con.* this abstract 4to, 231. *Vide* Culross F. 6. 7-8.

No. 13. 1747, Nov. 18. SIR JOHN KENNEDY *against* MRS ANN KENNEDY.

SIR JOHN KENNEDY had several bonds due to him payable to his heirs and assignees secluding executors, and he assigned them to John afterwards Sir John his eldest son, and his heirs, without mentioning executors or secluding them. Young Sir John also died, and now Thomas the heir and his sisters as executors to young Sir John competed for the bonds, and the Lords preferred Sir Thomas the heir. *Renit.* Dun and Drummore. Sundry matters resulting from this interlocutor were fully spoken. Arniston, though he was strongly for the interlocutor, in respect the assignation by old Sir John to young Sir John was only to him and his heirs, which he thought an indication of his mind that it should not go to executors, yet thought that when an heir succeeds to such a bond by service, it becomes moveable and goes to his executors ; and 2dly, that it is testable even by the original creditor, and differed totally from the decision 1725, M'Kay *against* Robertson. Drummore again thought these bonds moveable. Kilkerran was of opinion for the decision M'Kay, and also thought this bond still heritable in young Sir John's person. Minto in the chair thought that the act of Parliament made bonds secluding executors heritable to all intents in the persons of strange assignees as well as heirs. But most of us, particularly Arniston, Tinwald, and I, differed from him in that point. December 1st The Lords adhered, and refused without answers.

No. 14. 1748, July 13. SIR WILLIAM DUNBAR *against* LADY DIPPLE.

THIS is the like case with that of 6th November 1739, betwixt the Heirs and Executors of Sir James Rothead, (No. 10.) and we gave the same judgment.

No. 15. 1718, Nov. 22. EXECUTOR OF CAPTAIN CRAIG *against* ANN MEUSE.

FOUND a bond bearing annualrent before the term of payment of annualrent moveable *quoad relictam*, and therefore adhered to Tinwald's (now Justice-Clerk's) interlocutor, *multum renitente* President.