

the ground of the lands which were in the natural possession of the Lady at her death, being crop 1741 ; but that, for said crop, the executors, having right there-to, behoved to pay the last half year's rent due therefor, and which fell due and was payable at the term of Whitsunday 1742."

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Pleaded in a reclaiming bill for the assignees: They acknowledge that, having possessed from Martinmas 1741 to Whitsunday 1742, they are liable for half a year's rent ; but not as the rent of crop 1741, which being sown by the liferentrix, belonged to her ; 14th December, 1621, Macmath against Nisbet, No. 3. p. 15877. 25th July, 1671, Guthrie against Mackerston, No. 26. p. 15891.

Answered: Our lawyers have determined, that the liferentrix has right to the crop sown ; but never said that her executors are free of all rent therefor. This must be determined by the time of the death ; which, if it be before Whitsunday, the whole rent must be paid ; if only before Martinmas, the half ; and if after it, none.

It was disputed betwixt the parties, Whether the Mains of Blackburn were chiefly a grass or a corn room ? and whether the rent payable at Whitsunday 1742 was for the crop reaped the preceding harvest, or was fore-rent ? But this did not influence the question determined, to wit, whether any rent was payable for the corn sown by the liferentrix ? neither was it at this time determined, what consideration should be paid for the grass used after her death, before the next term.

The Lords, 10th November, 1748, found, That the executors were not liable for any rents for the crop of corns which was upon the ground at the time of the liferentrix's death, to which the executors had right by law ; and refused a bill, and adhered.

Act. *J. Stewart.*Alt. *G. Pringle.*[Clerk, *Gibson.**D. Falconer, No. 9. p. 10.*1727. *February.*SIR WILLIAM JOHNSTON *against* MARQUIS of ANNANDALE.

In a grass room, whereto the tenant's entry was at Whitsunday, the half year's rent payable at Martinmas, and the remainder at the Whitsunday thereafter, the proprietor dying in January, 1721, the question was, Whether the half year's rent payable the next Whitsunday fell under his executry ? It was argued, That the term of entry or term of payment signifies nothing in this dispute ; that it is the crop, year, and possession, which regulates all. But it was contended, Though in corn rooms, where the rent payable at Whitsunday 1721 is payable for crop 1720, the proprietor surviving Martinmas 1720, that rent falls under his executry, yet, in grass rooms, where the half year's rent payable at Whitsunday 1721 is actually payable for the possession betwixt Martinmas and Whitsunday, unless the

No. 51.

- No. 51. proprietor survive Whitsunday, such rent cannot fall under his executry. It was contended, on the other hand, That in this case the rent payable at Whitsunday 1721 is payable for the possession and grass 1720; for there being no corn, it is the grass that makes the crop. The inhabitants of that country make their advantage by the lambs, wool, cheeses, &c. which arise and are produced in the summer time; and generally thereabouts the full rent is payable at Martinmas; only it happens, by particular paction, that the rents in question were not payable till the Whitsunday; the proprietor, therefore, having survived the time for the crop and possession of which the rents in dispute were payable, they in consequence fall under his executry. The Lords found the rents in dispute fell under the defunct's executry.—See APPENDIX.

*Fol. Dic. v. 2. p. 453.*

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1730. *June.* WOTHERSPOON *against* LANG.

No. 52.

In a question betwixt the heir and executor of a defunct tenant, it was found, That the executor had right to the crop sowed after, though laboured before, the tenant's death; and it was remitted to the Lord Ordinary to hear parties upon this point, who should be liable for the rent?—See APPENDIX.

*Fol. Dic. v. 2. p. 455.*

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1736. *February 20.*

RELICT of MR. THOMAS LINNING *against* MR. WILLIAM GUSTARD.

No. 53.

Found, That the legal terms did not regulate the rents of the chapel-royal, gifted to his Majesty's chaplains, but that the same were due *de die in diem*, by a clause in the gift, bearing, "bygones from the period of the death of the former donatar." It was also suggested, That salaries paid out of the civil lists run *de die in diem*; as also the Lords of Session's salaries, and all Exchequer gifts.—See APPENDIX.

*Fol. Dic. v. 2. p. 454.*

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1738. *January 11.* CARRUTHERS *against* BARCLAY.

No. 54.

An infestment of annual-rent being conceived in favour of the creditor and his wife in conjunct-fee and liferent, and payable at two terms, Whitsunday and Martinmas, by equal portions, the half year's annual-rent which fell due after the creditor's decease was found to belong to his relict, and no part to the executor, though a part of the term was run before his decease.—See APPENDIX.

*Fol. Dic. v. 2. p. 452.*