

No. 35. 1753, July 3, Aug. 10. M'INTOSH *against* BAILLIE.

THE Court found unanimously that compensation does not stop the running of the quinquennial prescription of tenants' rents; so that after five years they cannot be obtruded to compensate a debt due by the landlord to the tenant, though it was due before the five years; and found also that the prescription runs equally where the tenant run away out of the country, as when he removed in a regular way. 10th August Adhered.

---



---

PRESUMPTION.

---

No. 1. 1734, Feb. 8. THOMAS WALLACE *against* ROBERT DICKIE.

THE Lords found the objections cut off by the subsequent accounts.

No. 2. 1734, July 12. LADY CARNEGIE KINFAWNS *against* LYON, &c.

FIND that the disposition comprehends heirship moveables. (They were of the same opinion, though the word "whole" had not been there.)

No. 3. 1735, Jan. 16. CREDITORS OF BROWNLEE *against* STEVENSON, &c.

THE Lords found that the narrative of an onerous cause in a deed by a husband to his wife is not *per se* probative without being astricted to exclude revocation. They found it presumed that the husband had intromitted with the mother in law's effects to the value of the sum in this deed, but remitted to the Ordinary to hear parties, Whether it is presumed that these fell under his *jus mariti*? and if they did, 2do, Whether or not the husband might not on account thereof give his wife a remuneratory provision so as to exclude posterior creditors but not prior? 13th December 1734.—16th January 1735, The Lords adhered. 11th July 1735, The Lords found that supposing the goods fell under the *jus mariti*, that the donation by the husband to his wife was not revocable. This carried by the President's casting vote, *renit.* Newhall, Milton, Minto, Murkle, *et me.*

No. 4. 1735, July 8. SKENE *against* UDNEY OF THAT ILK.

THE Lords adhered and found the fee could not impute in payment of the liferent annuity.

No. 5. 1735, July 11. CREDITORS OF BROWNLEE *against* STEVENSON, &c.

See Note of No. 3, *supra.*