

No. 16. 1752, Nov. 29. RALPH DRUMMOND *against* EWING.

THE Lords found, *nemine contradicente*, that an assignee to a liferent due to a third party dying, the liferent descends to his heir and not to his executor.

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HERITAGE AND CONQUEST.

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No. 1. 1736, Dec. 16. GREENOCK *against* GREENOCK.

IN the competition betwixt the heir of line and of conquest for the teinds, the Lords preferred the heir of line, who succeeded in this case likewise to the lands, and though teinds may no doubt go to heirs of conquest as well as lands, (I mean rights conquest of teinds of other mens lands) yet several, *inter quos ego*, thought in general, that where one purchased the teinds of his own lands, they both behoved to descend to the same series of heirs, unless the contrary were specially provided. But that general point was not determined, because of a specialty in this case, that, by the disposition of the lands, the *reddendo* could not be performed by any other but the heir in the lands.

## No. 2. 1738, Dec. 21. CREDITORS of MENZIES of Lethem.

THE Lords refused John Menzies's petition without answers, and found this heritable bond conquest though no infeftment followed upon it. The President differed from the interlocutor. Arniston thought, were the question entire, that heritable bonds should not at all be accounted conquest, but as that point is settled by a course of decisions, he thought the not taking infeftment made no difference.

No. 3. 1740, Jan. 8. EARL of SELKIRK *against* DUKE of HAMILTON.

IN this question concerning the late Earl of Selkirk's succession, the Lords adhered to all the interlocutors I had pronounced, and refused both reclaiming bills, I think unanimously, except as to the bond of corroboration, (as to which I believe there were two or three on the other side of the Bench who differed) and after full hearings for three days;—whereby it is settled that the law of conquest extends to all right on which infeftment may follow, though the defunct was not actually infeft; and 2dly, that it extends to rights of annualrent, and even heritable bonds as well as rights of lands; 3dly, that it extends to lands taken in trust in third parties' names, though the trust is not *in gremio juris*, nor in any back-bond, but a mere proper trust depending on the faith of the trustee; 4thly, that bonds secluding executors go to the heir of line; 5thly, that a corroboration of such heritable bonds and also of moveable bonds, which corroboration contained no clause of infeftment but secluded executors, does not alter the nature or succession of the former heritable bonds, agreeably to sundry precedents,—but that so much of that bond of corro-