

HERITAGE AND CONQUEST.

1736. December 16. GREENOCK *against* GREENOCK.

No 1.

ONE getting a precept of *clare* in lands, and the same day purchasing from the superior a right to the teinds, which referred to the precept of *clare*, particularly in the *reddendo*, “ The said Mr John Greenock and his
“ foresaids, and their tenants and cottars, answering to courts and perform-
“ ing other services as contained in the precept of *clare* granted by me to
“ him ;”—the Lords found that the teinds descended to the heir of line who succeeded in the lands, and would have been of the same opinion (without that specialty) wherever one purchases the teinds of his own lands, that it is *eo animo* to let them descend to the same heirs ; but that specialty plainly limited the succession to the heir of the lands, and therefore the general point was not determined. (See DICT. No. 8. p. 5612.)

1738. Dec. 8, 21. CREDITORS of MENZIES of Lethem.

No. 2.

A BOND of provision to a second son payable after the father's death with annualrent from the term of payment and a clause of infestment, though the son died before the father, and without taking infestment ; the bond was found heritable and conquest. (See DICT. No. 9. p. 5614.)

1740. January 8. EARL of SELKIRK *against* The DUKE of HAMILTON.

No. 3.

THE Lords found, that not only lands, but heritable bonds or annualrents whereon infestment followed in the defunct's person, go to the heir of conquest.

2do, That all dispositions or adjudications of lands provided to heirs

No. 3.

whatsoever, though no infeftment followed on them, go to the heir of conquest.

3to, That heritable bonds, though no infeftment followed on them, go to the heir of conquest, if they contain a clause of infeftment.

4to, That bonds secluding executors, but containing no obligation to infeft, descend to the heir of line.

5to, That bonds of corroboration of heritable bonds containing a clause of infeftment, alter not the right of succession of the original bonds as to the principal sums; and that therefore an heritable bond with a clause of infeftment, and some moveable bonds, being corroborated and accumulated with the annualrents, by a bond secluding executors but no clause of infeftment, that the principal sum in the original heritable bond goes to the heir of conquest. but that all the further sums accumulated in the corroboration descend to the heir of line.

6to, That rights of lands or heritable bonds in third parties' persons in trust for the defunct, though without any written document of the trust, go to the heir of conquest.

7mo, That the defunct purchasing the property of lands whereof he was superior, expressly in order to consolidate the property and superiority together; that the property descends to the heir of line who is heir in the superiority; and the Lords were of the same opinion, though the intention had not been expressed.

8vo, That the defunct purchasing the teinds of his own lands, they go also to the heir in the lands, who here was the heir of line; and some thought that teinds should always go to the heir of line, because of their own nature they require no infeftment. (See Dict. No. 10. p. 5615.)

See NOTES.