

consideration that these bonds were not permanent securities, being bonds for duties in common form, and were not considered as subjects bearing annualrent, and therefore no annualrent upon them is stated by the Company's cashier in Knappernay's account and receipt, Arniston seemed to drop that specialty.

No. 7. 1743, July 6. COCHRANE *against* HEIRS of COLONEL EVANS.

THE question was, whether a denunciation at the market cross of Edinburgh against one not residing there, infers annualrent by the act 1621. Minto, Ordinary, found it did not, against which we had a very ingenious reclaiming bill; but refused it without answers, and adhered.

No. 8. 1747, Nov. 27. RAMSAY *against* CHILDREN of HAY.

THE question was, whether a horning executed at the market cross of Edinburgh, pier and shore of Leith, but only denounced at the market cross, against a person abroad, was sufficient to make sums bear annualrent. We all agreed, that if it was not sufficient to infer escheat, neither would it be sufficient to make money bear annualrent, however, it might be sufficient for caption; and as to escheat, I was for searching the records what was the practice. However the Lords did not think that necessary, and unanimously altered. Dun's interlocutor, finding annualrent due, and found that the horning did not make the sums bear annualrent; and Dun himself came into the same opinion.

No. 9. 1748, Nov. 22. KINLOCH *against* HEIRS of MERCER.

A BILL payable at sight, accepted *unico contextu*, so far as appeared to us, for the acceptance had no date; the question was, from what time it bore annualrent, that is, what was the term of payment? We found it bore annualrent from the date.

No. 10. 1748, Nov. 28. CREDITORS of DOUGLAS *against* LADY DOUGLAS.

SOME Dragoons having pastured Sir John's lands, and deposited the grass mail, there arose a competition betwixt certain creditors who arrested the money, and the Lady upon an infertment of annualrent, but who had no decret of poinding the ground; and the arresters insisted, that without such decret the annualrent could not be preferred; but we found the annualrent preferable. *Renit.* Dun, and Tinwald doubted. President was clear, as I was.—November 2.

No. 11. 1750, June 14. CREDITORS of COCKBURN of Langtoun.

THE question was, whether inhibition affected not only rights of annualrent, *i. e.* the annualrent-right itself or the stock, but also the bygone annualrents due before inhibition? The Lords, 15th June, found the bygone annualrents did not fall under inhibition, and preferred the assignee,—unanimous except Kilkerran, who argued long on the other side. The President joined in the interlocutor, but differed from the whole Bench, as well as the Bar, as to his reasons. He thought, that even things properly moveable might fall under inhibition, or subjects descending to executors; nor *2dly*, did he think it of any

moment, though bygone annualrents were not appraisable or adjudgeable, for he thought that subjects affectable by arrestment or confirmation might fall under inhibition; 3dly, He thought that bygone annualrents might be adjudged. But his opinion was founded on this, that personal rights did not fall under inhibition, and that bygone annualrents are but personal though secured upon the lands. But I confess his reasons would hardly have satisfied me, for a personal disposition of lands or adjudications are but personal rights, and yet would fall under inhibition. 2do, I cannot look on bygone annualrents secured by infestment as personal rights. He said, that if they were real, they must be now created; but in that I do not agree, for an infestment in a yearly annuity is an infestment for every year that should afterwards come due. 2dly, We found that an inhibition on letters of horning, that is bearing "because the Lords had seen the horning" was void and null; but this last superseded, because it was said, that the universal practice some years ago was otherwise.

WE determined the question mentioned 14th June 1750, whether it was a nullity in the inhibition, that it proceeded only on a horning? and the parties produced no less than 176 instances of such inhibitions since the 1692; and we unanimously repelled the objection—3d July 1751.

No. 12. 1750, June 22. *MUIRHEAD against MAGISTRATES OF HADDINGTON.*

THE Lords adhered to Strichen's interlocutor, finding no annualrent due on an agent's account, even of debursements as old as 1731, and refused a reclaiming bill.

No. 13. 1751, June 11, 25. *CREDITORS OF LANGTOUN against STEWART, &c.*

A PREFERABLE debt of L.1000 sterling on this estate, with annualrent from 1690, being conveyed by Archibald Cockburn, younger of Langtoun, to the Society for Propagating Christian Knowledge, in 1723, in security of L.1000 sterling, then borrowed; and his father Sir Alexander, (who was served heir *cum beneficio*,) and he being debtors in relief to Houndwood in about L.700 sterling, they in 1730 joined in bond of relief to him, containing an assignation by Archibald to the annualrent before 1723, of the L.1000 conveyed to the Society, which they held in trust for him,—and this assignation Houndwood intimated to the Society. The Society in April 1732, on the narrative of that trust, made over this annualrent to Archibald, but saving a preference to themselves. 18th May 1732, Archibald Cockburn assigned these annualrents to Patrick Crawford in security of a debt of L.1341. Crawford thereafter attempted to poind Langtoun's crop and furniture; and being stopped by Stewart, Inglis, &c. the tacksmen, they were found liable for the debt and paid it, and got assignation in 1738, and in 1739 pursued poinding the ground. In the competition betwixt these two assignations, Stewart and the other tacksmen objected to Houndwood, that assignation and intimation were not habile to convey bygone annualrents of an heritable debt or right of annualrent, which could only be done by possession or poinding the ground; 2do, That though that were habile, and though Sir Alexander's signing the deed did supply intimation to him, that was not sufficient, because the right was not then in Archibald Cockburn, and *jus superveniens* does not hold in personal rights: and there was no intimation of Archibald's right in 1732 till their process of poinding