

divided, or if they go to the eldest,—in which case we agreed that the younger should have the recompense.

---



---

HERITABLE AND MOVEABLE.

---

No. 1. 1735, July 25. SIR JOHN DALRYMPLE *against* EXECUTORS of HALKETT.

See Note of No. 1. *voce* BANK.

No. 2. 1735, July 3, 29. DAUGHTER of MONRO *against* MONRO.

THE Lords found the bond not rendered moveable neither by the process for payment nor by the trust-assignation. 29th July The Lords adhered.

No. 3. 1736, Jan. 14. BALFOUR *against* WILKIESON.

THE Lords found, that the relief competent to this executrix against the heir, of sums paid by her before her marriage, fell under the *jus mariti*, though the sums paid were bonds bearing annualrent.

No. 4. 1736, Jan. 21. CREDITORS of CAVE *against* MURRAY.

THE Lords adhered, and thought the sum both arrestable and even moveable, though the creditors had acceded to the trust right.

No. 5. 1737, Jan. 5. July 8. FISHER *against* MURRAY.

THE Lords found the wife Elizabeth Fisher entitled to the half of the property of the whole moveables and executry, including the half of what by the former interlocutor she liferents to make up the deficiency of her annuity as well as the rest; (*me renitente*). This was determined in consequence of an interlocutor of the Lord Ordinary, finding that the provision in the contract of marriage of moveable goods and gear included debts and sums of money, whereof several doubted. But I own I thought, notwithstanding the Ordinary's interlocutor, that by the contract the subjects to be liferented by the wife were *destinatione* heritable. 8th July The Lords adhered.

No. 6. 1737, July 7, Nov. 11. EXECUTORS of PRINCIPAL SMITH *against* THE HEIR.

THE Lords altered the Ordinary's interlocutor, and found the whole sums moveable, in respect the lands were sold by the trustees and *fides habita de pretio* before the principal's death. But if it had not been that case I believe we should have found the sums heritable, though not very consistently with a former decision 21st January 1736, (No. 4.) 11th November 1737 The Lords adhered as to so much of the price as falls to this debt.