

1737. July 8. FISHER *against* MURRAY.

No. 5.

A WIFE by a post-nuptial contract being provided to an annuity out of wadset lands, with an obligation to make up the deficiency out of the annualrents of the husband's bonds, bills, and trade; and in case of redemption, the husband is bound to add as much to the wadset sum as to make up the annuity, and to employ it on land to the wife in liferent, and the heirs of the marriage in fee, which failing, his heirs and assignees; and the wife is further assigned to one-third in case of issue, and one half in case of none, of all free moveables, goods, gear, and household plenishing, that he should have at his death. The wadset was redeemed, and the heir admitted he was liable for the annualrents of the wadset sum; but the question was as to the deficiency, whether it should affect the heir or the executry? The Lords found that it affected the executry, and that out of it a certain sum should be secured to complete the life-rent. *2do*, Whether the wife had by the above clause assigning to her a proportion of moveables, right to debts and sums of money as well as *corpora*? The Ordinary found she had right to a share of moveables of whatever kind falling under executry;—which was not reclaimed against in due time. *3tio*, Whether the relief had right to the fee of a share of the moveables to be stocked out for her jointure? The Lords found that she had right.

---

1737. November 11.

EXECUTORS OF PRINCIPAL SMITH *against* His HEIR.

No. 6.

A BANKRUPT disposing his estate to trustees for behoof of creditors, to which they acceded; and the trustees having sold part of the estate, one of the creditors dying, so much of his debt as corresponded to his share of the price of the lands sold, or in other words, his share of the price, was found moveable, and to pertain to his executors, and no more. *Vide supra*, 21st January 1736, Creditors of Cave and Murray, (No. 4.) and *infra*, Heirs and Executors of Sir James Rothead, (No. 10.)

1738. June 14. PRINGLE *against* M'GHIE.

No. 7.

AN arbiter's decerning moveable debts to be paid against a certain day, with annualrent thereafter, does not make them heritable *quoad fiscum et*