

No. 2. 1736, Jan. 7.—Feb. 18. ERSKINE *against* EARL OF LAUDERDALE.

THE Lords adhered to the interlocutor of 7th January, finding annualrents due.

## No. 3. 1737, Jan. 13. CREDITORS of ANDREW ROSS, &amp;c.

THE interlocutor in this case of 13th July last was very ill expressed, which occasioned reclaiming bills: Therefore we pronounced a split new interlocutor, and found, that so much of the balance of the fitted account 1720, as was composed of principal sums, continues to bear annualrent till extinguished by payment, but that so much as was composed of annualrents does not bear annualrent; and found the several advances made after that account bear annualrent from the time of the advances.

No. 4. 1737, June 24. CAPTAIN CHALMERS *against* CUNNINGHAM.

SIR DAVID CUNNINGHAM having by the articles right to the whole crop 1695, which was payable, the money at Martinmas 1695, and some victual betwixt Yule and Candlemas thereafter, the Lords found, that the price bore annualrent from Martinmas 1694; that so a year's annualrent might fall due when a year's rent of the lands was due; (and Arniston thought it would have been the same, though the conventional terms of the rents had been later, since Martinmas is the last legal term.) But several (*inter quos* Royston,) thought that it should carry annualrent only from Whitsunday 1695. It is surprising, that since the general point, that the price of land bears annualrent, has been so long settled, it should be yet uncertain, and the Bench so much divided, from what term it carries annualrent. The other points in this case are hardly worth marking; but yet the Lords found, that the assignation bearing payment of certain sums equivalent to, &c. imported payment of the whole sums. The Lords adhered as to the annualrent.

No. 5. 1738, Jan. 18. MATHIESON'S CREDITORS *against* ROBERTSON.

THE Lords found, that the consignation in Bailie Arbuthnot's hands stopped the course of interest, and therefore adhered to the Ordinary's interlocutor as to that point; *Renitentibus* Kilkerran, Munzie, Murkle, Arniston, *et me*. What moved them was the special circumstances of the case, especially the previous demand of the money by the trustees; but they thought, (particularly the President and Kilkerran) that in the common case of a debtor by bond, the consignation ought to be in the hands of the clerk of the bills, with a bill of suspension.

No. 6. 1739, Nov. 23. FORBES of Knappernay *against* WALKINGSHAW.

THE Lords thought, that annualrent was due only *ex mora*; but Arniston thought that here *ex natura negotii* the *mora* was from a year after the receipt, when Knappernay might have counted and paid, and I think so voted Tinwald and Dun. The rest found annualrent only due from citation in this process. Arniston also at first mentioned a speciality, that many of the subjects were bonds bearing annualrent; but upon further

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