

subject destined and set aside be more than sufficient to answer the purposes, the superplus may be attachable by creditors, because the mortifier or debtor has no further interest than that the work be performed: And therefore, if it shall be thought that L. 50 is more than a sufficient yearly aliment to Hog, he is willing the same be restricted to what lesser sum shall be judged may suffice for that purpose. See 18th March 1707, Mollison supplicant, (Forbes, p. 155. *voce* PERSONAL and TRANSMISSIBLE.)—9th July 1668, Boag, (Stair, v. 1. p. 550. *voce* PERSONAL and TRANSMISSIBLE.)

THE LORDS remitted this cause to an Ordinary; but what was the issue of it, does not appear from any papers in the collector's hands.

*C. Home, No 233. p. 380.*

1745. January 22. NEILSON and MURDOCH, *against* COLQUHOUN and RAE.

JAMES ROBERTSON, merchant in Glasgow, named his uncle, Robert Robertson, merchant there, his executor; and, of the same date, specially disposed to him his whole subjects, for the behoof of his children.

It appearing, on James's death, that he was broke, Robert being in the same circumstances, gave up the whole effects to the creditors, who chose John Neilson, merchant, and Robert Murdoch, writer in Glasgow, their trustees, and he having died, the said trustees confirmed his effects, and also those of James, notwithstanding his disposition to his uncle was special, the same being in trust for his children.

On the same day of the surrendry made by Robert, Agnes Colquhoun and John Rae of Little Govan, creditors of both the Robertsons, arrested in the hands of their partners in trade; whereupon it came to be a question, How far arrestments laid on for debts as Roberts; and of effects as belonging to him, could affect James's interest in the copartnery.

THE LORD ORDINARY, 18th December 1744, 'having considered the disposition by James to Robert, and accepted of by Robert, wheteby, for the reasons therein-mentioned, he specially conveyed to Robert, every subject belonging to him, and particularly his share of stock with the said Robert, in company with George Bogle and John Jamieson; partners in the West-India and Virginia trade; and that for the behoof of the said James's creditors, and of his children, as to the residue: Found, That Robert and James Robertsons, being jointly and severally bound in the debts pursued for, the arrestments proceeding thereon; in the hands of Bogle and Jamieson, the other partners, albeit after the death of James, did no less affect the interest of James than that of Robert in the copartnery; and therefore preferred the arresters.'

THE LORDS refused two reclaiming bills successively, and adhered.

Petitioner, *H. Home.*

Clerk, *Justice.*

*D. Falconer, v. 1. p. 49.*

No 54.

N 55.

One partner of a company named another his executor, and died. Arrestments in the hands of their partners in trade, found to affect the shares both of the deceased and of the executor. See No 52. p. 716.