1765. *February* 5. PRINGLE of CLIFTON *against* His MINISTER.

IN this case the Lords found, that though a minister had been in use, past memory of man, to graze his cows and horse with a neighbouring tenant, yet that did not bar him from asking a designation of grass. Found also, that the Act of Parliament, which forbids arable ground to be designed to a minister for his grass, is to be understood of infield ground. The same had been found before in the case of the *Minister of Barry*.

1765. *February* 6. MR PHILP, Judge-Admiral, *against* CURRIE.

[Tait, "*Heritable*," &c.]

THE question here was concerning a bond of provision payable at the first term after the father's death, but bearing interest from the term preceding. The woman married, and her husband died a few days after her father; and the question was, Whether this bond fell under the husband's *jus mariti*, and so belonged to his creditors? All the Lords agreed that the *dies incertus* in the bond made a condition. They all agreed, also, that the condition was purified by the death of the father, though the term of payment was not come, and that it belonged to the husband, *jure mariti*, though he died before the term of payment. Lord Kaimes doubted whether it could belong to the executor of the husband, as having *tractus futuri temporis*? And if it did not go to the executor, it could not fall under the *jus mariti*. But Lord Pitfour answered, that what was meant by a *tractus futuri temporis* was a payment or prestation, made at different times, such as an annuity, not what was prestable *simul et semel*, though at never so great a distance of time; for the rule was, that nothing went to the executor, but what could be given up in inventory, that is, what was lying by the defunct, and what a value could be put upon; which is not the case of an annuity. Nor is it a consequence that, because this bond would not go to the executor, therefore it would not fall under the *jus mariti*; because, things having *tractum futuri temporis*, though they do not fall under the executry, fall both under the single escheat and the *jus mariti*, such as tacks for a certain number of years, assignations, liferents, &c. The only remaining doubt in the cause was, whether or not, as the sum was actually bearing annualrent at the time of the father's death, though the term of payment neither of annualrent nor principal sum was come, that did not make the money heritable *quoad* the husband: and upon this point the Lords ordered memorials, See *infra*, *February* 27.
