

No. 1.

To the plea, that the renunciation was only one part of a mutual contract, of which the counterpart was wanting, it was answered; *1st*, That the argument here was founded on a misapprehension of the nature of the transaction. No deed or writing of any kind was necessary to be executed by the creditors; the proposal came from them; and the deed of renunciation accordingly proceeds upon the narrative that they had agreed.

2dly, Supposing the transaction to be considered in the light of a mutual contract, Lady Cranstoun cannot now be allowed to resile; for as no formal deed was necessary on the part of the creditors, it was sufficient for them to declare their acceptance when required; and having declared their acceptance *rebus integris*, the transaction was complete and binding on both parties.

Replied for Lady Cranstoun and her husband: That it was mere pretext to insist that the deed of renunciation conferred any benefit upon Lord Cranstoun's creditors or his children; for the immediate benefit was to Lord Cranstoun himself; and were a distant, contingent, or eventual interest to a third party, to be admitted, the most indiscreet donation to the husband might thus be protected. And with regard to the second argument, that no formal deed of acceptance on the part of the creditors was necessary, the deed of renunciation did contain express conditions to be performed by the creditors, which they having failed to perform, the deed of consequence became void.

The Court pronounced the following judgment: "On report of the Lord Probationer, and having advised this petition with the answers, and heard parties procurators thereon, the Lords find that the deed of renunciation by Lady Cranstoun is binding upon her and her husband for his interest, and that she is bound to implement it; and they remit to the Lord Ordinary to proceed, and further to do as he shall see just." And to this interlocutor the Court adhered, upon advising a reclaiming petition and answers. But this judgment was reversed upon appeal.

Lord Probationer, *Ankerville*.

For the Creditors, *M^cQueen*.

Alt. Rae, M^cLaurin.

J. W.

1776. November 21.

NEILSON.

No. 2.

A claim for a widow's mournings was found not effectual in competition with the husband's creditors, where the marriage had been dissolved within year and day.—See No. 375. p. 6165. See APPENDIX, PART I. *voce* PRIVILEGED DEBT.