it would make such questions altogether arbitrary, and occasion many disputes whether the rooms were corn or grass-rooms, or whether most of the one or the other; and accordingly we found in this case that Archibald Campbell of Skirren having survived Martinmas 1736 his executors have right to the whole rents payable at that Martinmas whether fore-hand rent or not, and the victual rent payable at Yule and Candlemas thereafter; and that his son Dougal having survived Whitsunday 1737 (though not infeft) his executors have right to the half of the rents payable at the Martinmas thereafter, and of the victual rent payable betwixt Yule and Candlemas thereafter, agreeably to the decision 4th June 1741, Pringle, (*supra*) and several others there mentioned, and also in the papers.—(21st Feb. 1745.)

The interlocutor pronounced 21st February was very incongruously expressed, and there came a bill from the defender praying an explanation, which with answers brought on the case to be argued at great length on Saturday,—and this day, (11th June,) Tinwald was keen against the interlocutor. Arniston was for it, but only on the supposition that it was a grass-room and not properly fore-hand rent. But the Bar offered to prove the contrary, and that the rent payable at Martinmas was for the crop then yet to be sown; but the pursuers supposed that these farms were originally grass-rooms which occasioned the payment of rents in that manner, and continued notwithstanding the change from being a grass-room to a corn-room. Arniston thought on that supposition that it ought not to be considered as fore-hand rent, but as if it were still a grass rent; but yet he still argued and gave his opinion against the executors on the supposition of its being a corn-room. The question put was, whether a proof before answer of its being a corn-room or not? and if it carried, not, then we were to pronounce the interlocutor marked 21st February,—and it carried to allow a proof.

HEIR-APPARENT.

No. 1. 1734, Dec. 10. LADY RATTAR *against* SINCLAIR of Rattar.

THE Lords sustained process on a summons upon the passive title of charge to enter though the summons was raised and executed within the year. This came first before me and then the process had been called seen and returned *intra annum*, and therefore I found no process. But thereafter the pursuer altered the day of compearance, and the process coming before Lord Leven, he reported it, and the above judgment was given.

No. 2. 1736, July 13. MURRAY of Conheath *against* NIELSON of Chapple.

THE Lords found it competent to John the Protestant heir to prove the apprising satisfied and paid.