relictam, and therefore a woman against whom such a decreet-arbitral was given having married, and being charged to pay, and the husband for his interest, the Lords thought the charge warrantable, and would not suspend without caution. No. 7.

1738. *June* 27. CREDITORS of POLDEAN *against* SHARP of Hoddam. No. 8.

FEU-DUTIES not separated from the superiority by decreet or assignation, descend to the heir in the superiority, and not to the superior's executors, as was likewise found some years ago; so that it seems now fixed that they are heritable both *quoad creditorem* and *debitorem*.

1739. *February* 23. JEAN and MARGARET GRAYS *against* DUNLOP. No. 9.

LIFERENT annuities, and other annual prestations, though containing a clause of annualrent after the several terms of payment, remain notwithstanding still moveable *quoad fiscum et relictam*, and fall under the *jus mariti* as well after as before the term of payment, because they are still considered as *fructus* and not as *feuda*, and fall not under the acts 1641 and 1661, which make indeed some debts moveable that were before heritable, but make none heritable that were before moveable. (See DICT. No. 7. p. 5770.)

1739. *November* 6. HEIRS and EXECUTORS of SIR JAMES ROCHEAD. No. 10.

MERCHISTON and BLAIR having disponed their estates to trustees for their creditors, and among others Sir James Rochead; and Sir James and the other creditors having assigned their debts to these trustees in order to adjudge, which they accordingly did, Sir James having died after part of the common debtor's lands were sold, but before the whole were sold, the Lords found Sir James's debt, so far as corresponded to his share of the price of the lands sold moveable, and to descend to his executors, but found the rest of the debt heritable, and to descend to the heir. *Vide supra* the case of the Creditors of Cave, (No. 4.) and of the Heirs and Executors of Principal Smith, (No. 6.) and *infra*, 13th July 1748, Sir William Dunbar against Lady Dipple, (No. 14.) (See DICT. No. 187, p. 5590.)

*** The Lords found also in this case, that annualrents or heritable bonds which were payable at Candlemas and Lammas, and he having died

No. 10. the first of May, that the annualrents payable at the Candlemas preceding were moveable, and the subsequent annualrents heritable, and altered the Ordinary's interlocutor, which made the annualrents from the Martinmas preceding heritable.

1740. *February* 26. LORD DAER *against* LORD HAMILTON.

No 11.

THE like judgment in all respects to that of Heirs and Executors of Rochead, No. 10.

1741. *February* 11. ALLAN *against* WILLIAMSON.

No. 12.

IT was thought by several, but not decided, that a liferent assigned would fall to the assignee's heir, and not to his executor, as having a *tractus temporis*, though it would fall under his single escheat. (See No. 16. *infra*.)

1747. *November* 18.

Sir JOHN KENNEDY of Culzean, *against* Mrs ANN KENNEDY and Her HUSBAND, &c.

No. 13.

BOND secluding executors being assigned by the creditor to take effect after his death, to his eldest son and his heirs, without any mention of that eldest son's executors, whether they should be excluded or not; after his death a competition arose between his next brother and heir and the other younger brethren and sisters: We preferred the heir. (See DICT. No. 67. p. 5499.)

1748. *July* 13. Sir WILLIAM DUNBAR *against* LADY DIPPLE.

No. 14.

WE gave the like judgment in all respects as we did 6th November 1739, betwixt the Heirs and Executors of Sir James Rochead, (No. 10.) being anent adjudications on the same estates of Merchiston and Blair, which belonged to the deceased Mr William Brodie, and found the defunct's share of the price of lands sold before his death moveable, but of those only sold after his death heritable. (See DICT. No. 138. p. 5591.)