

ANNUALRENT.

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(DUE BY EXECUTORS.)

1763. June 16.

JOHN FERGUSSON Tidewaiter at Leith *against* ARCHIBALD STEWART Merchant in Edinburgh.

ARCHIBALD STEWART being found liable to account to Elizabeth Brodie, as in right of his brother William, for a fourth part of the moveable subjects which belonged to Margaret Charteris, his mother, (*See Brodie against Stewart, 21st December 1757. Fac. Col. No. 74. p. 124. voce EXECUTOR*); and the said Elizabeth Brodie having conveyed her interest therein to John Fergusson, her second husband, he insisted that Stewart should pay annualrent from March 1750, which was two years after his mother's death, for the balance of the executry in his hands. The LORDS found the defender liable only for the interest of such sums as bore interest at the death of Margaret Charteris.

Adv. Lockhart.

Alt. D. Dalrymple.

Clerk. Hume.

Fol. Dic. v. 3. p. 30. Fac. Col. No 108. p. 254.

A. Wight.

No 77.
An executor was found liable in interest for such sums only as bore interest at the defunct's death.

1765. December 12.

WATSONS *against* WATSONS.

ROBERT WATSON, merchant in Edinburgh, having been married three times, made provisions in favour of the children of the different marriages.

Upon his death, in 1757, Mary Mearns, his third wife, confirmed executor to him; and an action having been brought by the children of the first marriage, for their provisions, called all parties, having interest, in a multiple-pounding; and a new multiple-pounding was brought by her daughters after her death.

The claims of the children of the first marriage were sustained by an interlocutor of 9th August 1763. After this, a good deal of litigation ensued as to the question, How far interest could be claimed from the executors?

'THE LORDS found the executors not liable for the interest of the subject confirmed, in so far as that subject did not bear interest at the time of the testator's death; but found them liable for the interest of the sums bearing interest from the term after the testator's death; and found them liable in the expences of process, from the interlocutor dated 9th August 1763.'

Adv. Patrick Murray.

Alt. David Grene.

Fac. Col. No. 24. p. 244.

G. Ferguson.

No 78.
Found as above.