No. 7. 1738, June 14. PRINGLE *against* M'GHIE.

A DECREET-ARBITRAL being given against a woman decerning her for certain debts, which of their nature were simply moveable and did not bear annualrent, but for which the arbiter decerned annualrent from the several terms of payment; the woman having afterwards married Pringle, and a horning being raised summarily upon that decreet against both husband and wife, he presented a bill of suspension without caution or consignation. The Ordinary passed it upon caution, because though some of the debts were clearly moveable *quoad relictam*, yet others seemed doubtful, and a part of the charge was general. But Pringle reclaimed, and prayed that it should pass without caution. The President thought the horning unwarrantable against the husband, and therefore was for passing without caution. Others of us thought, that if the horning was unwarrantable, it should be recalled and the writer punished. But we thought the horning warrantable, and agreeable to constant practice, and upon the question we were all for caution, except the President.—N. B. Dun doubted at first.

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

See Note of No. 1. *voce* FEU-DUTIES.

No. 9. 1739, Feb. 23. JEAN and MARGARET GRAY *against* DUNLOP.

THE question was, Whether a liferent annuity bearing annualrent by paction from the several terms of payment fell under the *jus mariti*? We were unanimous that it did as to all terms that fell within the marriage, because suppose the clause of annualrent made the annuities heritable, yet before the term of payment, from which alone they carried annualrent, they behoved to be moveable, and all the question was as to bygone annuities before marriage, and which were bearing annualrent before the marriage. Royston, Arniston, Drummore, &c. thought them heritable because of the words of the act 1661, but others of us *inter quos ego* thought that act did not concern the case, which indeed made some debts moveable *quoad* executors, that were before heritable, but made no debts heritable that were before moveable; that therefore the question was, Whether such annuities, tack-duties, or other annual prestations, having clauses of annualrent adjected, were heritable before 1641;—and we thought that these were in the construction of law *fructus* and not *feuda pecuniæ*, and therefore moveable; and accordingly it was so decided, but by a very narrow majority.

No. 10. 1739, Nov. 6. HEIRS AND EXECUTORS of SIR JAMES ROCHEAD.

THE Lords adhered to the interlocutor finding the debt due to Sir James Rochead by Merchiston, &c. heritable, but altered as to the annualrents of the heritable bond falling due at Candlemas, which they found wholly moveable, as all annual prestations must be after they are become exigible, without regard to legal terms,—but did not find that the annualrent became moveable *de die in diem*.