

No. 3. 1735, Feb. 20. CAPTAIN CHALMERS *against* SIR J. CUNNINGHAM.

THE Lords first found eases were presumed where the conveyance bore in general certain sums of money, without adding equal to the sums after assigned; and that the rule of determining the extent of those eases ought to be a medium of the eases proven to have been given for debts *in eodem genere*, that is, equally preferable. (See No. 7.)

* * The case of Spréul Crawford, of 5th January 1743, here referred to, is No. 5, *voce BONA ET MALA FIDES*.

No. 4. 1736, Feb. 12. M'KENZIE *against* SIR A. M'DONALD, &c.

THE Lords found that the trust-infestment is in the Crown for the use of Murdoch M'Kenzie; and found Murdoch M'Kenzie not bound to find caution not to carry the money to England. *N. B.* It was thought that trust-infestments were not included in the vesting acts, and therefore are adjudgeable in this Court.

No. 6. 1738, Jan. 4. TRUSTEES OF THE CREDITORS OF COLONEL JOHNSTON *against* THE CREDITORS.

THE Lords found that these trustees had no claim in law to any fee or reward, *renit. Minto, Drummore, et me.* Monzie tells me that the point was decided in the same way in the case of the Trustees of Abbotshall. 19th January, A bill was refused, but it was two days too late.

No. 7. 1738, June 21. CAPTAIN CHALMERS *against* SIR J. CUNNINGHAM.

See Note of No. 14, *voce* ADJUDICATION.

No. 8. 1739, Nov. 30. ANN CRAWFURD *against* THE REPRESENTATIVES OF MR WILLIAM CRAWFURD.

See Note of No. 7, *voce* FACTOR.

No. 9. 1740, Nov. 19. THE CREDITORS OF THE DUKE OF HAMILTON *against* THE EARL OF SELKIRK and LORD DAER.

IN the question of this extraordinary disposition by the Dutchess of Hamilton, for payment of her son's debts, though the trustees had an unlimited power of agreeing with what creditors they pleased, and preferring any of them to the rest, and the creditors barred from any action against them; yet the original trustees being dead, after the Earl of Selkirk, one of them, had disposed of the subject, and therefore the trust was either now at an end, or devolved upon the Duke of Hamilton, who declares he does not oppose the creditors recovering their money out of this fund; the Lords thought there could not be a right without a remedy, (a means of attaining it) and that therefore the