

1740. *February 22.*

EXECUTORS of the LADY TOLQUHON *against* The CREDITORS.

It was found, that notwithstanding, by contract of marriage between Tolquhon and his Lady, her annuity was payable yearly, yet the legal terms of Martinmas and Whitsunday were the terms of payment of the said annuity; and that therefore the liferentrix had right to the half year's annuity at Whitsunday 1738, being the next term after her husband's death. And it was found also, that the liferentrix, having lived till the Martinmas day, although she died upon the morning of that day, had right to the whole year.

Kilkerran, No. 2. p. 564.

No. 45.
Annuity payable yearly, without bearing also termly.

1741. *June 4.* PRINGLE *against* PRINGLE and M'DOUAL.

It is an established rule, that the legal terms of the year are Whitsunday and Martinmas, so that the defunct surviving Whitsunday, his executors have right to the half of that crop, and surviving Martinmas to the whole of it; which was said to be a just rule, on the supposition of the tenant's term of entry being Martinmas, and that therefore probably Martinmas had been the usual term of entry when the rule was established.

But where the tenant's term of entry is Whitsunday, it was said not to be so obvious, how to account for the rule; but that, nevertheless, even where the tenant's entry is at Whitsunday, it had now for more than a century been the practice to give the half of the crop to the executor of the defunct, who survived the Whitsunday, and the whole of it where he survived the Martinmas, for which the following decisions were referred to: February 21, 1635, Laird of West-Nisbet *against* Swintoun, No. 15. p. 16883. and July 20, 1671, Guthrie *against* Mackerston, No. 25. p. 15890.

On account of which established practice, it was in this case found, that the defunct having survived Martinmas, his executor had right to the whole crop, and therefore to the rent payable at the Whitsunday thereafter, by the tenant whose entry had been at Whitsunday, and who was bound to pay his rents at the Martinmas and Whitsunday following his entry.

Vide June 11, 1745, Campbells *against* Campbell, No. 48.

Kilkerran, No. 3. p. 565.

No. 46.
Whitsunday and Martinmas are the legal terms whensoever the tenant entered.