

No 92. THE LORDS repelled the defences proponed for Janet Schaw, and found her liable, *in valorem*, of the subject disponed to her by Mr. M'Micken her first husband.

Fol. Dic. v. 1. p. 372. Forbes, MS. p. 75.

No 93.

1737. November 11. SMITH *against* SMITH.

A DEBTOR *oberatus* having disponed his estate to certain trustees for the use and behoof of his creditors, with power to them to sell and dispose upon the same, and to divide the price among the creditors; the trustees accordingly entered upon the management with consent of the whole creditors, were infeft, and found a purchaser for the lands. After the purchaser was infeft, but before the price was distributed, one of the creditors dying, the question occurred betwixt the heir and executor, which of them had right to his debt, which was a personal bond bearing interest. It was doubted whether infeftment granted to trustees, though accepted of by the creditors, had the same operation as if granted to the creditors directly. But the LORDS took it upon a ground less disputable: They found the price moveable, the same having been with the creditor's consent; after which there remained nothing but a personal obligation upon the purchaser to pay the price in the same manner as if the estate had been disponed directly to the creditors, and they had sold the same. See APPENDIX.

Fol. Dic. v. 1. p. 372.

1796. December 14.

ROBERT HENDERSON *against* WILLIAM STEWART and THOMAS HENDERSON.

No 94.
The production of a personal ground of debt, in a ranking and sale, does not make the debt heritable, nor liable to be affected by an inhibition.

IN the ranking of Thornywhat and Castlemains, John Ferguson, a personal creditor, produced his grounds of debt, and was ranked accordingly in the scheme of division.

After the estate was sold, but before the price was paid by the purchaser, or a decree of ranking pronounced, Robert Henderson, one of Ferguson's creditors, executed an inhibition against him, and also an arrestment in the hands of the purchaser, upon the idea of his being debtor to Ferguson.

Ferguson afterwards assigned his grounds of debt and interest in the price of Thornywhat and Castlemains, to William Stewart and Thomas Henderson, two of his creditors, who led an adjudication in his right; and a multiple-poining having been raised in name of the purchaser, in order to ascertain the interests of Ferguson's creditors, the Lord Ordinary preferred the assignees. Upon advising a reclaiming petition, the Court adhered to his interlocutor, in