

No. 19. affect the estate after the locality is at an end. And although the wife's claim for aliment and mournings, may be called a *debitum humanitatis*, yet such debt cannot compete with other lawful creditors; and it would look odd, that a debt which is postponed to all others, should yet affect an heir of entail, who is not liable for the most onerous contract of the preceding heir.

The Lords found, That Sir David Baird is not in this case liable, as heir of tailzie to his father, either for mournings, or aliment to his widow.

*C. Home, No. 258. p. 415.*

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1744. July 5.

THE EXECUTORS-CREDITORS OF MURRAY KYNNYNMOUND *against* AGNES MURRAY KYNNYNMOUND.

No. 20.

General reference in the sasine to the clauses in the disposition.

Although the act 1685 declares, "That such tailzies shall only be allowed, in which the irritant and resolute clauses are insert in the procuratories of resignation, charter, precept and instrument of sasine," yet this has not been so understood, that, where the procuratory of resignation and precept of sasine are *in eodem corpore*, the several irritant and resolute clauses must be repeated in each: For, by an equitable construction, all the clauses in the same deed are understood to be inserted in every part of the deed, and therefore, where the irritant and resolute clauses are inserted in the procuratory, it is enough that, in the precept thereto subjoined, they be referred to; for in that case the precept of sasine is the whole deed. But where the instrument of sasine, neither in reciting the precept, nor in the notary's act of giving sasine, recites these irritant and resolute clauses otherwise than by a general reference to the disposition, in which the precept is contained, which was the present case, the statute was found not to be complied with, and that the debts of the heir so infeft, might be charged upon the entailed estate.

*Kilkerran, No. 5. p. 543.*

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1748. July 28.

BARON KENNEDY *against* AGNES MURRAY KINNYNMOUND, and Mr. GILBERT ELLIOT her Husband.

No. 21.

How far the heirs of tailzie liable for the entailer's debts?

Sir Alexander Murray of Melgund married Grizel Kinnynmound, heiress of Kinnynmound, which she conveyed to him, and he infeft her in a liferent annuity upliftable out of both estates.

He afterwards tailzied the said estates by a dispoission to himself in liferent, and Alexander his son in fee, and failing him and the heirs of his body, to Mr. Hugh Dalrymple, advocate, his own brother uterine, "under the burden of the said liferent annuity;" and also with the burden of the sums contained in an