

S E C T. VIII.

Incorporate Stock.

1710. July 25.

JAMES MURRAY Merchant in Edinburgh, *against* SIR ROBERT BLACKWOOD Merchant there.

No 47.

A share of the stock of the African Company found moveable, and legally carried by confirmation of the proprietor's executor-creditor, although every part of that stock was established by charter and infestment held of the Crown, and destined not to be uplifted but according to the rules of the Company.

IN the competition betwixt James Murray, who had adjudged the deceased Patrick Murray of Livingston, his share of the capital stock of the African Company, due out of the equivalent, and Sir Robert Blackwood, who, as executor-creditor to Patrick Murray, had confirmed the same; the LORDS sustained Sir Robert's confirmation, and preferred him, albeit it was *alleged* for Mr Murray, That every part of the joint stock of the African Company was originally heritable, being established by charter and infestment held of the Crown of Scotland, for payment of a hogshead of tobacco, and destined not to be uplifted nor transmitted to new proprietors but according to the rules of the Company; and therefore, no supervening change by dissolution of the Company, did alter the interest of heir or executor, or creditors adjudging or confirming, though it might render the subject arrestable or moveable.

Fol. Dic. v. I. p. 368. Forbes, p. 435.

1735. July 1.

SIR JOHN DALRYMPLE of Cowsland *against* The REPRESENTATIVES of DAME JEAN HALKET.

No 48.

Found, that the shares of the Bank of Scotland are not heritable, but simply moveable, and fall under the *jus mariti*.

TEN shares of the Old Bank of Scotland having accrued to a lady during her marriage, the question arose after her decease, whether they belonged to her heirs, executors, or husband. It was generally agreed that the executors had no claim; if the subject was moveable before the act 1661, cap. 32. it behoved to go to the husband; if heritable it continued so, for no alternative was introduced with respect to any heritable subject, save bonds bearing annualrent allenary. But for the heir it was *pleaded*, That bank-stock is a right, having *tractum futuri temporis*; the original subscription paid in is sunk into the company's stock, belongs to the company as a public body, and by no means to any of the partners; the subscriber is entitled to his proportion of the yearly dividends, and that *in perpetuum*; but as these profits are not accessory to any stock or capital belonging to the partner, it is that very thing that makes bank-stock fall under the definition of a right having *tractum futuri temporis*.—*Answered* for the hus-