No. 6. 1736, Feb. 25. THOMSON *against* KERR.

THERE were two questions whether adhere or alter? The Lords found that the whole 6000 merks cannot be charged solely on the estate the son made a title to, and therefore altered: But the next question was, Whether the father's whole estate should be brought *in computo*; or only the lands in the heritable bond, viz. Meggiesholm. I was of this last opinion and some others, but the first carried upon the vote, 3d February 1736. 25th February, The Lords adhered by the President's casting vote.

No. 7. 1736, Nov. 19. FISHER *against* CAMPBELLS.

See Note of No. 4, *voce* FRAUD.

No. 8. 1737, Jan. 14. TRUSTEES, &c. of ROSEBERRY *against* GEDDES.

THE Lords would not determine the question, Whether the facts are sufficient to infer Mr Geddes's accession to the trust-disposition so as to bind him to the terms of it in time coming. But they found that he could not have any benefit or preference by the arrestments used by him in prejudice of the other creditors. We were unanimous;—and certainly the using these diligences while he allowed the creditors to remain under a deception that he had acceded was *contra bonam fidem.*

No. 9. 1737, Jan. 25. GOLDIE *against* CREDITORS OF POLDEAN.

THERE were here two questions; The first; Since the 300 merks bond, *chirographum apud creditorem non repertum,* whether it is presumed *solutum* properly so speaking by payment or satisfaction, or only in that sense, that no suit could be competent upon it? 2dly, Whether the whole L.84 sterling could now be claimed, or only the restricted sum of 300 merks? The Lords found the 300 merks not presumed paid by Poldean, and found the whole L.84 sterling due, 23d December 1736.—25th January 1737 The Lords adhered to the first point, (after long reasoning) finding that though the 300 merks bond was not extant in the creditors hands, yet payment was not presumed. Royston was once of a different opinion, but altered upon an observation that *chirographum apud creditorem non repertum, &c.* only held where there was but one instrument of debt, and retiring of that alone destroyed the creditors ground of action, but not where there are more original instruments of the same grounds of debt, which is the case of bonds of corroboration; and here not only was it necessary to preserve the 300 merks bond, but also to preserve the creditors back-bond to make it have any connection with the L.84 bond,—and he voted for the interlocutor. We also adhered to the second point, but had little reasoning about it.

No. 10. 1737, Nov. 3, 17. PEW *against* MERCER.

THE chief question was, How many acres the words "some acres" may in law extend to? The Lords by majority found that these words could not extend to the half, and

therefore reduced the second feu in so far as concerns the additional 24 acres during the years of the tack. 17th November, Adhered, but see as to meliorations.

No. 11. 1737, Nov. 17. MARY DICK *against* MRS CASSIE.

See Note of No. 9, *voce* HUSBAND AND WIFE.

No. 12. 1741, July 3. WATSON *against* ROSE.

WATSON pursuing Rose for six years wages; alleged none were due because none agreed for; that the pursuer was sent to the defender by his the defender's brother for his education as a servant; that he clothed and educated him, and made him a supernumerary waiter, and he made great profits in the defender's service. Answered, Wages due without paction, the pursuer having before been a servant to the defender's brother for wages, 20 merks. Replied, The pursuer's wages, what he got from the defender's brother, were not near equal to the clothes the defender gave him, besides his education and other profits. The Ordinary's interlocutor had found no wages due, and the Lords adhered and refused a bill without answers.

No. 14. 1744, June 26. EARL OF WIGTON *against* COUNTESS DOWAGER.

See Note of No. 27, *voce* HUSBAND AND WIFE.

No. 15. 1744, July 31. MALCOLM *against* DR BALFOUR.

THE Lords in effect found that physicians honoraries are presumed paid at the time, unless the circumstances make it improbable that they would be paid,—which is the common case of death-bed sickness.

No. 16. 1744, Nov. 10. EARL OF WIGTON *against* THE COUNTESS.

THE Lords thought that family pictures did not fall under a provision to a wife of household furniture. Arniston was clear, and so was Drummore. The President first was of a different opinion, but afterwards doubted. The President also thought that a kitchen grate and stove-holds fixed in the ordinary way, and a boiler for boiling cattles meat, did not fall under the provision. Remitted to me to pass the bill of advocation. (See No. 14.)

No. 17. 1745, Feb. 17. JOHN WEIR *against* WILLIAM STEEL.

THE Lords found the dispositions not revoked by the contract of marriage; but they thought proper first to allow a proof by parole evidence of the defender William Weir's expressions, to shew that he did not mean to revoke the dispositions, which to me appeared extremely new, to admit parole evidence to determine the succession of land estates.—19th December 1744.

This case is mentioned 19th December. This day the Lords without any new debate from the Bar or on the Bench, found the former settlements not altered by the contract of marriage, upon advising the proof. I confess the whole procedure appeared to me odd.