No. 3. 1740, Feb. 13. LENNOX *against* NAPIER.

I KEEP the papers, and mark this, only for the sake of an extraordinary step taken by the Court in point of form. The question was about passing or refusing a bill upon juratory caution. They would have passed it, if any evidence had been brought, but no evidence being brought, the Lords remitted the bill and answers to the Ordinary, to whom the bill was presented, and granted diligence for recovery of the vouchers of the petitioner's allegations before the said Ordinary.

No. 4. 1740, June 24. SIR JOHN MAXWELL *against* M'MILLAN.

See Note of No. 5, *voce* SUPERIOR AND VASSAL.

No. 5. 1741, Feb. 24. DANISH ASIATIC COMPANY *against* THE EARL OF MORTON.

The Lords found that decree absolvitor cannot be brought under the review of this Court by suspension, and reserved reduction as accords.

No. 6. 1750, Nov. 15. SHOEMAKERS OF CANONGATE, *Supplicants.*

THEY presented a bill of suspension against a great many of their creditors quite unconnected with one another. The Lords found it incompetent, but that the Corporation must restrict it to one of the creditors.

No. 7. 1752, July 4. RUSSELS *against* CLERKS.

THE Clerks having suspended a decreet of the Sheriff of Stirling decerning in a small assythment and expenses for a riot committed on the Russels; Minto, Ordinary, thinking the sum too little, turned the decreet to a libel, and decerned in a larger sum. The Clerks reclaimed, 1st, in point of form, that our decreet in the suspension could not exceed the sum in the decreet suspended; 2dly, that the riot was not proven. Our difficulty was on the first point;—but the President was clear;—and we agreed to refuse the bill.

TACK.

No. 1. 1734, Jan. 24, CARLYLE *against* LAWSON.

THE Lords advocated and assoilzied, and remitted the consideration of the expenses to the Ordinary. The President thought that a written renunciation is not necessary where the parties agree, 15th January. 24th January Adhered without answers. (See No. 10.)

No. 3. 1737, Feb. 4. SIR JAMES DALRYMPLE *against* HEPBURN.

THE Lords altered the Ordinary's interlocutor, and found the obligement to renew the tack effectual against Sir James, a singular successor, for they considered such an oblige

ment in the same light as a tack *per verba de presenti*, but *collatum in tempus futurum*, and it was an usual form of tacks of teinds for many lives, and many 19 years, to conceive them as if they were so many different tacks, one commencing at the ish of the former, yet being all *in eodem corpore juris*, they have been considered and sustained as if they were all but one tack, 21st December 1736. 26th January 1737, The Lords altered the interlocutor 21st December, and found the obligement not binding on singular successors; and 4th February adhered with answers.

No. 4. 1737, June 21. MELDRUM *against* GIBB.

See Note of No. 13, *voce* JURISDICTION.

No. 5. 1741, June 23. LORD DARNLEY *against* CAMPBELL of Shawfield.

THE Lords adhered to the Ordinary's interlocutor, finding Shawfield liable only for the tack-duty for his own feu-duty, and that he had the benefit of tacit relocation. I was of the small number that were for altering, because I thought the feu-duty not the subject of a lease or tack, but I did not speak. Arniston, who did not either speak, voted to adhere; and yet I afterwards found he had the same doubt with me, that this was not the subject of a lease, and he voted adhere only because the pursuer's own right was only a lease from Crown, which he thought was now void and null. But on a reclaiming bill, this was remitted to the Ordinary. But, after they found there might be tacit relocation, upon a proof they found there was no place for it here,—28th January 1742.

No. 6. 1742, June 4. HENDERSON *against* VISCOUNT STORMONT.

FIND no sufficient evidence that the Castle-mains, and duty payable out of the mill of Highlaw, are part of the four towns of Lochmaben.

No. 7. 1742, Dec. 1. YORK-BUILDINGS COMPANY'S TACKSMAN, BARTLETT, *against* STEWART.

As to the general question, Whether horning is necessary against a tacksman not in the natural possession but possessing by sub-tenants? *vide* my notes on this case. But the question before us turned upon the communing betwixt Stewart and the York-Buildings Company, Whether that was sufficient intimation? The Lords adhered to the Odinary's interlocutor as to crop 1740, and found him only liable for the tack-duty of that crop, but found him liable for the whole rents 1741, though no intimation or warning was made to him before that term, which to me seemed odd. Arniston in the chair gave his opinion in terms of the interlocutor, but seemed afterwards to doubt upon the reasoning.—13th January 1743, Adhered.

No. 8. 1742, Dec. 3. EARL OF EGLINTON *against* HIS TENANTS.

THE corns of three baronies belonging to the Earl being in June 1733 destroyed by a thunder storm of hail so that the produce of the crop in most of them was not sufficient