

No. 6. 1739, July 19. ROBERTSON *against* POTTER, &c.

THE Lords found Horn being factor for a stranger was liable for the expenses of process, and that too upon the general point without regard to the specialty, in the same way they decided 16th June 1738, Pringle *against* Kennedy.

No. 7. 1739, Nov. 30. CRAWFURD *against* REPRESENTATIVES of
CRAWFURD.

THE Lords altered the Ordinary's interlocutor, and found the pursuer had the *jus exegendi*, though we thought that any defence competent against the representatives of the granters of the factory would be competent against her, and in this we were pretty unanimous, but we differed more as to John's share of executry. The fact appeared to be, that John assigned to his father on November 19th, the father and the other children granted the factory December 2d, and their factor made the transaction December 10th, and from his discharge it appeared John was then dead. But whether he was dead before the factory did not appear, so the question was, Whether John's share of the executry not confirmed before his death, which was before the transaction, went to the other brothers and sisters, or if notwithstanding thereof the father had right to it by his assignation from the son John?—and it carried, that it descended to the other brothers and sisters, of which opinion I was.

No. 8. 1749, Nov. 16. MINE ADVENTURING COMPANY *against* BROWN.

BROWN being appointed by Sir Robert Clifton overseer of his mines, and by his orders laid out considerable sums and borrowed sums to be repaid out of the first of the produce, Sir Robert assigned his right to this Company. They got possession of the mines, but a farm of M'Farlane's taken by Sir Robert upon which furnaces and other expensive works were erected was still retained by Brown; and the Company pursued a summary removing before the Sheriff of Dunbarton, who ordered him to remove. But on report by Lord Drummore of an advocacy, we found he had right to retain these subjects till the assignee pay or find caution for what shall be found remaining due to Brown, and therefore remitted to the Ordinary to pass the bill.

No. 9. 1750, Nov. 2. LADY GORDON'S CLAIMS on the ESTATE of
TARBERSIE.

LADY HARRIET GORDON'S claim was objected to because only signed by her factor, who had no special factory to enter such claim, which we repelled, because he had a factory to pursue and recover this very debt, and had before the Rebellion obtained a decret before the Court of Session in his own name. As to Henry Lumsdean,—repelled the objection to his claim that it was for bills granted after 1742, and gave the like judgment on the claim of Ann Stewart, mother-in-law to the forfeiting person. But as to Robert Barron's claim on bills after 24th June 1745, we superseded determining the objection on the vesting act