" *March* 3, 1757.—The Lords found, that the parish of Inveresk being the known place of the person's birth, the said parish of Inveresk are liable to her maintenance.

" The Court were of opinion, that whenever the place of the person's birth was known, that parish in which the person was born was liable to his maintenance.

" But there was a speciality in this case, which prevented a general discussion on that point, that it did not appear from the fact, as stated in this case, that the person's residence in this case could be said to have been within the parish of Tranent."

1757. *March* 10. WILLIAM NAIRNE *against* SIR THOMAS NAIRN of Dunsinnan.

THIS case is reported in *Fac. Col. (Mor.* 15605.) Lord KILKERRAN's note upon it is as follows :—

" Lord Strathnaver brought an action against the Duke of Douglas, to record the tailyie of Rosebank, made by the Countess of Sutherland. There are also other like cases, which have been registered long after the death of the granter, such as the tailyie of Bargany, at the suit of Mrs. Joanna Hamilton, the grandchild of the maker of the entail.

" In the tailyie of Lee, made by Cromwell Lockart, the first institute was Richard, the second James, the third John Lockhart of Castlehill; and the son of John, after the death of all before him, then a minor, presented the tailyie for registration, which was ordered, and this was in 1694.

" In the tailyies of Rosehaugh, Scot of Galla, of Kinglassy, of Ruthven; *ergo*, as the law does not reprobate the registration of tailyies after the death of the granter, as being only for publication, so the practice confirms it; so much for the general point.

" And as to the second, whether competent to a remoter substitute, as by the common law, every substitute has a right to succeed in his order, so the statute has required that to make it good, it should be recorded, every substitute has a right to apply for that; this was found in the case the tailyie of Rosebank above mentioned—the case of Nestshields—the case of Drum. In short, it was never doubted. The registration is purely ministerial, it preserves the right against creditors, and against forfeitures, and is *maximæ utilitatis*, and as for the necessity of a process, the answer is, that it is a matter *voluntariæ jurisdictionis*."

" *March* 10, 1757.—After much arguing on the bench, the Lords appointed the tailyie to be recorded."

1757. *June* 16. BLAIR *against* HENDERSON.

THE Pursuer, being creditor to the father of the defender, raised an action after the death of his debtor against the defender, his eldest son, as representing him ;

and the defender having renounced the succession, the pursuer obtained decree *cognitionis causa*. On this decree, the pursuer adjudged a small subject in Cupar as *in hereditate jacente* of his debtor. In this process the defender appeared and pleaded that the subject sought to be adjudged was not *in hereditate jacente* of his father, but belonged to himself as heir of his mother, to whom his mother's father had disponed the same in the following terms:—"For the love, favour, and affection he had and bore to Anna Young, his eldest lawful daughter, and to George Henderson, merchant in Cupar, her husband, and for certain other onerous causes and considerations giving, granting, and disponing to and in favour of the said Anna Young and Geo. Henderson, and longest liver of them two, and the heirs to be procreated betwixt them and their assignees whatsoever, all and hail, &c." The defender therefore maintained that this subject could not be attached for his father's debts.

It appeared that George Henderson had survived his wife.

March 5, 1757.—The Lord Ordinary found "That the subjects disponed being from the wife's father, and his name mentioned first, and being for love and favour, and not for tocher with the wife, which is previously secured by the contract of marriage, the wife was fiar, and that therefore the subject cannot be adjudged by the pursuer, a creditor of the husband, on the decree of cognition against the defender, the heir of the marriage."

In a petition against this interlocutor the pursuer referred to the following decisions in support of his argument, that the husband must be held to have been fiar:—*Bartilmo* against *Hasinting*, 2d Feb. 1632; *Graham* against *Park*, 29th Jan. 1739; *Garden* against *Sandilands*, 12th July, 1671; *Edgar* against *Sinclair*, 23d July, 1713. The Court, however, adhered. Lord KILKERRAN has the following note of the grounds of the judgment:—

"*June* 16, 1757.—The *President*, *Kilkerran*, &c. declared for the interlocutor, only *Kaimes* stated a doubt upon this clause 'and the longest liver of them,' to which the answer made was, that the fee was originally settled in some body, and in respect of the circumstances in the interlocutor mentioned, particularly that it was a mere gratuity, not a contract of marriage, that could be no other than the wife. And on the question stated, see or refuse, the Lords refused the petition."

1757. *June* 25. WALTER ANDERSON, Minister of the Gospel at Chirnside, *against* The EXECUTORS of GEORGE HOWE, the late Minister.

THIS case is reported in *Fac. Col.* (*Mor.* 14,839,) and by *Kames*, (*Sel. Dec.* 129, *Mor.* 14,843.) Lord KILKERRAN has the following note and observations upon it:—

"The act of Parliament does not say that the alteration of the stile shall not accelerate the right of parties, but only that it shall not accelerate the term of payment; in other words, the alteration of the stile does not alter the term when *dies venit*, but it does alter the term when *dies cedit* nevertheless.