

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