

No. 9. and 10. 1736, Jan. 13. P. CRAWFORD, *Supplicant*.

THE Lords appointed the bills to be registrate at the petitioner's instance.

No. 11. 1736, Jan. 16. GILLESPIE *against* BARR.

KILKERRAN reported a question of a bill drawn on one Barr, and another Barr his son as cautioner for him, and accepted by both. The quality of cautioner was only in the address of that bill, but was accepted without any addition. The Lords found the bill null as to the cautioner.

No. 12. 1736, Jan. 17. A. *against* B.

LORD DUN reported a question upon a bill drawn by a husband upon his wife, and accepted by her and protested for not payment, whether horning was competent not only against the wife as acceptor, but against the husband for his interest? The Lords found, and directed the Lord Ordinary accordingly, that no horning was competent against either, not against the wife, because she being designed a married wife, her obligation was void and null, and not against the husband, because the bill was accepted, and therefore the bill could only be pursued *via actionis*.

No. 13. 1737, Jan. 7. WEIR *against* PARKHILL.

THE Lords find that a donation cannot be habilely constituted in the form of a bill, and find this bill was without any onerous cause, and therefore sustain the defence and assolzie.—24th November 1736.

The Lords adhered to their former interlocutor of 24th November, with the addition to the last part of it, viz. that they find it proved by the tenor of the writing in question, viz. the bill, and the pursuer's admission in the course of this process, that there was no written testament by Mary Weir, the granter's first husband. This is a decision of great importance, but the Justice-Clerk, Minto, and Dun, were against it, though Dun thought it proved not its date.

No. 14. 1737, Feb. 22. KER *against* CHALMERS.

I keep these papers, not because of any difficulty in point of law, but because of a loose-erroneous expression of Lord Stair. But notwithstanding thereof the Lords unanimously adhered to my interlocutor, finding the last bill being first protested preferable to the other bill though prior in date.

(See Stair, B. 1. T. 11. § 7.)

No. 15. 1737, Feb. 24. ADAM *against* DICK.

THE Lords found the bill not duly negotiate, being protested 17 days after the day of payment, and therefore adhered.