

NO. 2. 1735, Feb. 11. DUFF of Braco *against* DUKE OF GORDON.

THE Lords found that Braco may build the bulwark on finding caution for ten years.

NO. 3. 1736, Jan. 13. TOWN OF EDINBURGH *against* COLONEL CATHCART.

THE Lords ordered me to remit with the instruction that the Dean of Guild take tria! what is the safest method, and if it be safest to fill up the vault, that he order it to be done, and hear Colonel Cathcart on the extent of the value.

NO. 4. 1738, July 28. TOWN AND HERITORS OF NAIRN *against* BRODIE.

THE Lords did not lay their difficulty here where the lawyers put it, that the water of Nairn had continued in its present channel all the last summer and this. But their difficulty was, Whether it being a *flumen publicum* and having changed its channel though it had been but for a month, whether any private party could bring it back since by the change the new channel became *juris publici*? However the Lords found that the town and the heritors had right *opere manufacto* to bring back the river to the former channel being within their own ground. But there was a great diversity of opinions, and some thought the last words superfluous, and that if they could at all bring it back, they might do it *opere manufacto*, though not within their own ground.

NO. 5. 1741, June 25, 27. FARQUHARSON *against* FARQUHARSON.

THE questions were two; First, As to the dike or bulwark that Invercauld is building on his own ground not altogether on the *ripa* close to the *ripa* of the water of Cluny, whereby when the water overflows its banks the greater weight of water must of course go over to Achindryne's grounds on the other side, and which bulwark he is building to save about 60 acres of ground, having already destroyed four or five,—the question was, Whether he might lawfully build that fence, or if he should at least find caution for Achindryne's damage, as in the case of the Duke of Gordon and Lord Braco? and the Lords found he can lawfully build upon his own ground upon the side of the water of Cluny to save his own grounds. The next question was, Whether Invercauld could dig a channel for the river Dee in a place where the river formerly run but now became Achindryne's property *alluvione* though of little value being all chingle, and that in order to save his own ground, at least on finding caution for damages? and the Lords unanimously found he could not touch Achindryne's property to save his own ground. Arniston and Justice-Clerk differed from the first vote.

NO. 6. 1743, June 22. SIR JAMES WEMYSS *against* ANDERSON.

A bill of suspension and liberation was reported, wherein sundry questions, What is our law with respect to colliers? occurred;—particularly whether every collier in Scotland must be some body's property? 2dly, Whether being out of a coalmaster's service infers liberation from him? 3dly, Whether a coalmaster when his coal is given up can bind his colliers against their will, to whom he pleases? &c. &c. They passed the bill, and probably these questions will come again before us.