

No. 4. 1739, Dec. 19. RUSSEL *against* GORDON.

See Note of No. 13, *voce* MUTUAL CONTRACT.

No. 5. 1741, Jan. 9. HAMILTON *against* ANN HAMILTON.

A FATHER disposing his estate to his eldest son, and taking a bond of provision to his younger children by certain proportions, without any reserved power to the father, the question was, Whether the father could afterwards alter the proportions? and the Lords found that he could not.

No. 6. 1742, Jan. 19, Feb. 4, 18. EARL OF SELKIRK *against* LORD ARCHIBALD AND BASIL HAMILTON.

IN this case, the Lords found the Earl of Selkirk obliged to relieve the pursuer, Lord Archibald Hamilton, and to disburden the lands of Riccarton of the heritable bond of L.3000 he had granted on those lands as the provision of his daughter, the Countess of Cassillis; for they thought that the condition of the devolving clause having existed by his succession to his brother Selkirk's greater estate, he must denude of Riccarton as he got it; and that the faculty to provide wives and children, was only an exception from the prohibition to alter the order of succession. 2dly, They found the devolving clause in the assignation 1685, to the heritable bond on Callender for L.20,000, altered by the general devolving clauses in the settlements of Crawford-Douglas and Crawford-John 1693, and therefore found the Earl bound to pay over that sum to the pursuers, Lord Archibald and Basil. 3dly, They found the devolving clause in those settlements sufficiently altered as to the heritable bond granted by the Dutchess with the Duke's consent for L.40,000, also in 1693, containing an express power to the longest liver to alter, according to the marriage contract 1694; and 21st January, after hearing parties on the superiority and non-entry of Ellieston, they found that the devolving clause in the settlement of Crawford-Douglas and Crawford-John, did not reach this subject; and 4th and 5th February were altered as to the last points, and refused bills without answers; but a reclaiming bill as to the first point was, by the President's casting vote, appointed to be seen. 12th November 1742, The Lords altered the interlocutor as to this point; and found the Earl of Selkirk not bound to disburden of the L.3000; nine to five. *Renit. Arniston et me.* But a back-bond being afterwards discovered from the Earl and Countess of Cassillis to Rutherglen, that that L.3000 sterling should not affect him or his heirs, they again altered 18th February 1743;—and this last interlocutor was affirmed in Parliament, as were our other interlocutors, except that about Ellieston, which was remitted to be reheard, because of the Earl of Selkirk and Rutherglen's death.

No. 7. 1743, Nov. 23. THOMAS WATSON *against* THOMAS GLASS.

AN obligation in a tailzie, in case there shall be daughters and heirs-female procreate of the maker's body alive at his death, obliging his heirs-male and of tailzie to pay his said daughter and heirs-female 10,000 merks,—the question was, Whether that oblige-