

No. 3. 1734, July 3. *WARDLAWS against SIR GEORGE WARDLAW.*

THE Lords demurred whether any action was competent, but I could not understand a remuneratory action.

No. 4. 1734, July 26. *A. against B.*

IN a case reported by Lord Drummore in a process in the Outer-House roll, wherein the pursuer not compearing protestation was granted, the defender gave in an account of expenses, and the question was, Whether we could or should give such expenses by and attour the protestation money mentioned in the act 1672, being L.8, which is only payable in case the defender be pursued again. The Lords granted the expenses, though no precedent was offered of it since the institution of the College of Justice.

No. 5. 1735, Jan. 31. *CRAIK, &c. against THE DAUGHTERS OF DUCHRAE.*

THE Lords found the judgment against Duchrae as far as it goes binding against this defender; 2dly, They found that the last Duchrae could not even in his contract of marriage settle the succession upon his daughter in prejudice of the father's settlement. The first was unanimous. The last was much disputed.

No. 6. 1735, June 10. *LEES against SIR HUGH MONTGOMERY.*

THE Lords before answer whether they will take Lees the pursuer's oath, ordained Somerville to be examined, 20th February 1735.—19th June, The Lords adhered to their interlocutor of 20th February allowing the witness's oath to be taken before answer.

No. 7. 1736, June 29. *M<sup>c</sup>KENZIE against COLONEL FARQUHAR'S HEIRS.*

DECREET being pronounced by the Ordinary against Colonel Farquhar before his death, and afterwards stopped upon a representation after his death, but before it was known, his heir now compearing and offering to subject himself to the passive titles, and to dispute the cause if he were allowed, the Lords allowed him to compear, (though not called) and would not allow the former decret to be extracted.

No. 8. 1736, Dec. 17. *EARL OF SUTHERLAND against DUNBARS.*

THE Lords adhered to the Ordinary's interlocutor, and remitted to a Committee to prevent that vile practice of cutting or altering summonses after they are insisted in.

No. 9. 1737, Nov. 22. *HUME against HUME.*

THIS being a transference in a contravention of lawburrows, in which an act had been pronounced but not extracted, the Lords found that the pursuer could not amend his libel, and remitted to the Ordinary to proceed accordingly, particularly upon the pursuer's title. This arose from a difficulty that occurred to the Bench, Whether such a contravention descends to executors or to the pursuer the heir?