1762. *June* 22. ROBERTSON *against* ROBERTSON.

IN this case it was found that a bond of provision, granted by a father to his daughter and the heirs of her body, and her assignees, in a contract of marriage allenarly, might be uplifted by the daughter without finding caution to repay the same in the event of her dying unmarried. This judgment was unanimous.

1763. *June* 22. TAILORS of POTTERROW *against* TAILORS of EDINBURGH.

THE Potterrow and Bristow is part of the barony of Inverleith, the baron of which, in the year 1594, erects the tailors of Potterrow into a corporation. In the year 1648 the town of Edinburgh purchased from the baron the superiority of the barony, and the tailors of Edinburgh took this opportunity to bring under subjection to them the tailors of Potterrow, upon pretence of the Act of Parliament, 156 *anno* 1592; and, in the year 1649, they persuaded a number of the tailors, indwellers of the Potterrow, to enter into contract with them, whereby they subjected their corporation to the tailors of Edinburgh, and bound themselves and their successors in office to take their admission from them, to pay admission dues, &c.; and this contract was signed upon the back by every man that was admitted into the trade, and by many of the pursuers; and, by virtue of this contract, the tailors have been admitted and the dues paid ever since. The present tailors having raised a reduction of this contract, and a declarator of their rights and privileges, the contract was unanimously reduced by the Lords, and with it a bill which had been granted for the admission-money of eight tailors; and it was found that such a contract could not be the ground even of prescription.

N.B. It was PLEADED, that a corporation, by the most regular and formal act, could not give up its privileges in prejudice of its successors in office; and, to prove this, several decisions were quoted, particularly a case decided a few years ago betwixt the *Weavers in Glasgow and the Weavers in Calton*, in the neighbourhood of Glasgow; and likewise the case of the *Barbers of Edinburgh* against the *Barbers of the Canongate*.

1763. *June* 24. M'CULLOCH *against* M'CULLOCH.

IN this case the Lords found, without a division, that a man bound, by his contract of marriage, to give his land estate to the heir of the marriage, might portion a younger son with a reasonable part of that very land.

1763. *June* 30. RUSSELS *against* RUSSEL.

IN this case the Lords would not determine the general point, that where an

estate is entailed to several substitutes, whom failing, to the maker of the entail, his heirs and assignees, or, as it happened in this case, to the third son of the entailer, and his heirs and assignees whatsomever,—such heirs have not the benefit of the prohibitive and irritant clauses of the entail; and several of the Lords, particularly Lord Coalston, said, that the decision in the case of Cassilis proceeded upon specialties, such as that it was plainly in the view of the parties there to preserve the succession in one person, who was to bear the name and arms of the family, and not to have it divided among many heirs-portioners; and, therefore, not to give the heir in possession a power of preventing the estate from devolving to heirs-female, was perverting the limitations intended for the preservation of the family, to the destruction of it; and, besides, there were clauses in that entail which showed it to be the intention of the tailyier that such heirs only should have the benefit of the limitations who were themselves subjected to them. The Lords, therefore, decided the cause upon another point. It was, however, said, by the President, that the general point was determined by the House of Lords. But, with great submission to that House, I cannot discover upon what principle of law a man should not have it in his power to secure an estate to his own heirs at law, or to the heirs at law of any other for whom he has an affection. In this case, if William Russel, the third son, had been alive, it was hardly disputed but that the prior substitute would be under fetters to him; and what difference does it make that he was dead and his daughters now sueing for the execution of the entail, who are as much provided for by the entail as William, their father?

1763. *July* 19. M'Culloch of Barholm *against* M'George.

The question here was concerning a bill accepted by the person on whom it was drawn, but not signed by the drawer, who was also the creditor in the bill. The Lords found, in consequence of some former decisions, that the bill was void and null; and, this day, they adhered, though a very strong circumstantial proof was offered, consisting partly of written and partly of parole evidence, to prove that there was here a debt constituted by a former bill given up when the bill in question was granted. This carried but by a majority of one.

1763. *July* 19. Douglas *against* Douglas.

A man made a testament in the East Indies, wherein he nominated his brother and sister heirs, each of the half of his moveables; and he bequeathed to his sister, over and above her share, a small tenement of land, which he believed was his own, but which truly belonged to his brother the co-heir, he having inherited it from his mother.

The Lords found, upon the authority of Papinian L. —, *de Legat.* 1, That the brother could not take his half of the succession without conveying the tenement of land to his sister; and, he refusing to do that, they found that he must repudiate the one half of the moveables, the consequence of which was, that, with respect to