

makes the first clause of the act 1695 of little effect; but there were against it Newhall, Justice-Clerk, Haining, Dun.

\* \* The Lords refused as to the son being liable *in valorum*, but gave the Lady another aliment of L.50 sterling. The answers were in the wrong with respect to the terms of the fund of the aliment.

No. 3. 1736, Feb. 24. JOHNSTONS *against* STEEL of Bowerhouses.

ON the interpretation of the word "possession" in the act 1695, anent fraud of apparent-heirs, the subject being an improper wadset with a back-tack, Lord Haining, Ordinary, having found that the reverser's possession was the possession of the wadsetter's apparent-heir, and that the liferenter's possession was also the apparent-heir's possession,—the Lords altered the interlocutor, and found the heir's possession of the back-tack duty relevant to subject the next heirs to his onerous debts and deeds, and found the liferenter's possession not relevant. They waved determining, Whether the assignee of the apparent-heir's possession was relevant.—18th December, 1733.

The Lords found possession of the back-tack relevant; 2dly, As to the 400 merks, remitted to the Ordinary. 3dly, Repelled. 4thly, Found possession must be proved. 5thly, Found the userenter's possession not sufficient.—23d January 1734.

The Lords found sufficient evidence of George Johnston's possession. We thought, both that there was no need *post tantum temporis* to prove the nomination, and though there had been no nomination, yet possession being *facti*, they thought a protutor's possession sufficient.—24th February 1736.

\* \* The case Boyle against M'Aul, 26th June 1745, here referred to, is thus mentioned:

The Lords gave the like interlocutor, as 23d January 1734 and 24th February 1736, Johnston against Steel, and refused a reclaiming bill against Arniston's interlocutor, and adhered unanimously.

No. 4. 1736, June 16. M'BRAIR of Netherwood *against* MAITLANDS.

THE Lords adhered to the Ordinary's interlocutor, finding the daughters not liable, in respect they got not payment out of their father's estate, 19th February 1736.—16th June, Adhered unanimously, except Drummore and the President.

No. 5. 1741, Dec. 9. LEITH *against* LORD BANFF.

HERE the question again occurred on the act 1695, Whether an apparent-heir not serving heir to a remote predecessor, passing by an immediate one, but possessing without making up any title, falls under that act, and is liable for the former apparent-heir's debts, who had been three years in possession, a point that had been determined upon a hearing, 6th January and 12th February 1736, Lady Ratter against her son; and Mr Craigie mentioned another, decided the same way in 1725 or 1726, Backie against