

No 3.  
the whole  
sum, yet was  
found obli-  
gatory, and  
the caution-  
ers reason of  
suspension  
founded  
thereupon  
was found  
relevant.

cautioner, but in effect rejected and refused ; because he had thereafter caused Strakmertoun charge Dalhousie for the hail sum, under the pain of horning, and thereby forced Dalhousie to give him a bond for the hail sum ; notwithstanding whereof, the LORDS found the reason of suspension relevant against my Lord Chancellor's vote.

*Fol. Dic. v. 2. p. 15. Haddington, MS. No 1954.*

1664. June 25.

ALEXANDER ALLAN *against* MR JOHN COLZIER.

No 4.

ALEXANDER ALLAN pursues Mr John Colzier to pay a sum of L. 92 pounds, addebted for the defender's mother, and that upon the defender's missive letter, by which he obliged him to pay the same.

The defender *answered*, Absolvitor ; because, by the missive produced, he offered him to become the pursuer's debtor for the sum due by his mother, being about L. 92 ; but, by a postscript, requires the pursuer to intimate to him, or his friends at Falkland, whether he accepted or not, which he did not then till after the defender's mother's death, and so it being a conditional offer, not accepted, is not binding.

Which the LORDS found relevant and assoilzied.

*Fol. Dic. v. 2. p. 15. Stair, v. 1. p. 206.*

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### SECT. III.

#### Personal Obligation.

LAIRD of LUNDIE *against* EARL of ARGYLE.

No 5.

A bond of a moveable sum being made to be paid to the creditor and his heirs, is found, by the LORDS, to appertain to the creditor's executors, and not to the heir, except the bond had expressly excluded the executors' assignee.

*Auchinleck, MS. p. 146.*

1627. March 16.

NISBET *against* CRAUFORD.

No 6.

AN obligation is made by a debtor to his creditor, to pay to him, and his wife, a certain sum, or to the longest liver of them two, their heirs and executors.—