

1738. *June 13.* ROWAND *against* LANG.

No. 8.

A BOND by a principal and cautioner, 29th January 1707, no diligence was done on it till 27th January 1714, that the cautioner was charged on a Bailie's precept of poinding ; and again charged in 1715 ; and in 1736 a horning was raised on that precept and charge. In a suspension of this horning the Lords were divided, whether diligence within the seven years has the effect to perpetuate the obligation, so as all sort of diligence may follow after the seven years, or if only the diligence commenced within the seven years may be followed out after they are expired ; but did not determine, because the horning was following out the diligence by the charge on the precept, which regularly ought to precede horning ; and therefore they found the letters orderly proceeded. (See DICT. No. 238. p. 11041.)

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1738. *December 19.* Mr LOCKHART *against* LORD SEMPLE.

No. 9.

A BOND being granted by two persons as co-principals, but whereof one got a bond of relief from the other ; some time after a third person granted a simple bond of corroboration, and also got a bond of relief from the principal debtor ; and this last paying upon assignation, was found to have action against the first cautioner only for a half ; and that they were to be considered as co-cautioners ; agreeably to the decision Murray of Broughton and Orchardton in 1722, affirmed in Parliament even *ex parte*. (See DICT. No. 31. p. 14651.)

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1741. *July 22.* SIR ROBERT MUNRO *against* BAIN of Tulloch.

No. 10.

A BOND of presentation both to present the prisoner, and to pay, falls under the act 1695. See Robertson against M'Linlay, December 3, 1736, No. 6. *supra*. (See DICT. No. 219. p. 11017.)

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1741. *July 30.*

TRUSTEES of KINCAID'S CREDITORS *against* JAMES FARQUHAR.

No. 11.

A BOND by a purchaser and a cautioner at a voluntary roup for the price of lands, and to perform the other articles of roup, found not to fall under the act 1695.