

corroboration upon getting a bond of relief from the principal debtor Rosline; but in the case, 10th July 1745, the relict of Mr James Pollock against Sir Robert Pollock, she was found in her husband's right entitled to a total relief of a bond wherein Thomas Pollock was bound as principal and Sir Thomas expressly as cautioner, because in the corroboration only Robert and James were bound, whereby it was presumed that James acceded upon the faith of Sir Robert,—and here it does not appear that Sir George M'Kenzie knew who was principal and who cautioner. The Lords found the pursuer entitled to a total relief against Blackhill. *Renit.* President and Milton. 17th January 1753 *nomine con.* adhered. It seems that both President and Milton had altered;—but as Sir George had taken a bond of relief from Martin alone, we agreed that that would not alter the case.

No. 24. 1752, July 9. SCOTT of Farnish *against* ———.

SCOTT being cautioner in 1724 for ——— in two bonds, got an heritable bond of relief, and was infert. The lands were afterwards sold, and the price arrested in the purchaser's hands by ——— creditors, and the purchaser raised a multiplepinding, and called Scott, who thereafter paid the debt in which he was cautioner, and took assignation, which he produced with his infertment in the lands, and craved preference for the price. Objected, Scott was liberated, and the cautionry prescribed by the septennial prescription provided by the act 1695, and he could not thereafter and after the other creditors' arrestments, and the multiplepinding, pay to their prejudice. Answered, He was not bound to take the benefit of that prescription. I reported the case for advice, and the Lords unanimously repelled the objection, and sustained the infertment.

CITATION.

No. 1. 1742, Dec. 10. MAGISTRATES of EDINBURGH *against* CLARKSON.

THE question was, Whether summoning the Magistrates without the Council upon this act of Parliament was sufficient? The Lords found the citation null,—*renit.* Royston, Strichen, Drummore, *et me.* The Court thought that citing Magistrates in common form, meant the same as citing the Burgh in common form. 10th December Altered, six to five and President, which was six to six.

CLAUSE.

No. 1. 1739, July 25. CREDITORS of WILLIAM THOMSON.

SEE Note of No. 22, *voce* ADJUDICATION.