

this bond fell under the prescription of the act 1695? We agreed that a bond of presentation to present or pay in common form does not fall under that act; 2dly, that a corroboration by a principal and cautioner falls under the act, though it be not for money instantly borrowed but for an old debt;—and as we looked upon the obligation to present as inept and superfluous, since whether that was performed or not, the cautioner remained bound, unless the debt was also paid, therefore found it fell under the said act 1695. *Renit.* Kilkerran, and Dun reporter.

No. 11. 1741, July 30. TRUSTEES OF KINCAID'S CREDITORS *against*
FARQUHAR.

ON a voluntary roup by these trustees, the purchaser having given a bond, with James Farquhar cautioner for the price, and to perform the other articles of roup, the Lords found that the bond falls not within the act 1695 anent cautioners.

No. 12. 1742, Feb. 3. SPENCE *against* CAVES.

BANNERMAN granted bond in 1710 for L.600, and Spence gave an obligation, bearing, that at his desire the money was lent, and obliging him that Bannerman should pay the money, or otherwise that he should pay it upon an assignation. The Lords found that Spence had not the benefit of the act 1695 anent cautioners. The Court was divided. Arniston in the chair was against this interlocutor, as I was. 14th January Adhered.— (3d December.)

No. 13. 1742, June 29. MIDDLETON *against* BURNET.

A BOND by two persons, the one acknowledges him to have borrowed and received the money, and therefore he and with him the other bind them conjunctly and severally to pay that money, (but not with and for him.) The other person found not a cautioner in the sense of the act 1695 to have the benefit of that act.

No. 14. 1743, Nov. 23. HUNTER *against* HAMILTON.

See Note of No. 15. *voce* PROCESS.

No. 15. 1744, Feb. 21, 29. SINCLAIR of Scotscahill *against* M'KAY.

THE Lords refused this bill of suspension, which to me appeared infinitely stronger even than the case of Hunter 23d November last, for here both suspension and bond of caution referred to a bill that actually once had a being, but was different from that charged on, and yet they found the cautioner bound,—*renit.* ———, Royston, Justice-Clerk, *et me.*—29th Adhered.

No. 16. 1745, July 10. SIR ROBERT POLLOCK *against* MRS LOCKHART.

THOMAS POLLOCK as principal and Sir Robert Pollock as cautioner, granted bond for L.1000. Thomas died within the seven years. After his death Sir Robert Pollock, and