

No 7.

In a suspension, founded on an allegation that the debt was paid, the Court, before exacting caution, allowed the suspender a diligence to recover evidence of payment, in order, that if evidence should be produced, juratory caution might be permitted.

1740. February 12. LENNOX of Woodhead *against* NAPIER of Culcreuch.

A BILL of suspension being offered of a charge for payment of a liquid debt, upon this reason, That the charger's father, the original creditor, had got an assignation for security, upon which he had intromitted, and was paid; and the debtor craving to have the bill past upon juratory caution, the LORDS devised a new piece of form, which was to remit to the Ordinary on the bills, to grant diligence to the presenter of the bill of suspension, for recovering the documents of the charger's father's intromission, with this view, that if the alleged intromission were made appear, the bill should be past upon juratory caution.

Fol. Dic. v. 1. p. 122.

* * * See This case *voce* SUSPENSION.

1760. August 7. JOHNSTON *against* MAXWELL.

No 8.

IN an action of oppression and damages against Justices of the Peace, the LORDS refused to oblige the pursuer, who had the benefit of the poor's roll, to find even juratory caution; because this was truly preventing the poor from the relief of the Court, supposing their case well-founded, which it is reported to be, before they are entitled to the benefit of the poor's roll.

Fol. Dic. v. 3. p. 116.

* * * See This case *voce* POOR.

See APPENDIX.