

1752. *January 7.* COPLAND of Collieston *against* IRVINE of Gribton.

No. 21.

ADJUDICATION against a cautioner, on a bond wherein he was expressed as only cautioner, sustained though led 20 years after the date of the bond, for all that fell due within seven years of the date, in respect of a horning executed within the seven years, though never denounced or followed out.

---

1752. *June 4.* CAMPBELL *against* M'LACHLAN.

No. 22.

A TENANT being to remove, Campbell, his master, detained his stocking for payment of his arrears. M'Lachlan wrote to Campbell engaging for whatever the tenant and he should agree, and thereon Campbell allowed the stocking to be carried off. The letter was not holograph, and M'Lachlan denied that that was the letter he subscribed, but owned he had signed a letter written by the same person who wrote this. A proof before answer was allowed in the Outer-House; and it was proved by witnesses, that he subscribed the letter; and at advising we found that mean of proof competent, for we considered it as a bargain of moveables; and we found M'Lachlan liable for what was found due in this process, though Campbell and the tenant had come to no agreement. (See PROOF.)

---

1753. *January 17.*

DAME ELIZABETH M'KENZIE *against* M'KENZIE of Blackhill.

No. 23.

MARTIN and M'Kenzie of Blackhill were bound in a bond for L.100 sterling. Thereafter a bond of corroboration was granted by them both, and Sir George M'Kenzie of Granville, who also for the creditor's further security assigned to him a separate subject, out of which the debt was afterwards paid. Sir George's relict and executrix sued Blackhill for relief of the debt; and he produced a bond of relief by Martin of the original bond, and insisted that Sir George and he were co-cautioners, and therefore he was only liable to relieve *pro rata*, (Martin having failed.) Answered, It does not appear that Sir George knew who was principal and who cautioner, and that he acceded on the faith of both, which differences this case from that of Orchardton, and the other of Lord Semple, (*vide* No. 9.) The Lords found Blackhill liable *in solidum*. See DICT. No. 38. p. 14661.)