

APPEAL.

1734. *December 11.*

Mr. ROBERT BLACKWOOD *against* RUSSELL, and OTHER CREDITORS of Sir
GEORGE HAMILTON.

No. 1.

ONE of more persons interested in a subject, appealing and prevailing, it was thought the benefit would accresse to the others not appealing, but not directly decided.

1736. *July 8.* M'LEOD of Cadboll *against* GORDON.

No. 2.

APPEAL being entered by the creditors of Ankerville against a decret of forthcoming obtained by Gartie, of a debt, wherein Ankerville, as principal, and Cadboll, as cautioner, were debtors to Gordon of Killgour, Gartie's father, against Cadboll the cautioner only ; and diligence being raised after the appeal against Cadboll, because he was no appellant, the Lords, on a petition for the creditors appellants, ordered the clerk of the bills, when any bills of horning, poiding, or caption, should be presented on this decret against Cadboll, to acquaint the Lord Ordinary of this application, that he may determine as he sees cause. Cadboll afterwards presented a bill of suspension in his own name, of a caption raised after the appeal, and the Lords would not pass the bill, but sisted execution of the caption, till a new warrant was obtained of the hail Lords, if in time of Session, or three in time of vacance ; and had the caption been before the appeal, they would not have interposed at all, but left the party to take his hazard.