

No 214. THE LORDS found, that Porterfield could not dispense with the act of Parliament; notwithstanding that it was pleaded for the charger, that one might renounce any benefit introduced by law in his own favours.

For the Charger, *Sir Tho. Wallace.* Alt. *Arch. Stewart jun.* Clerk, *Murray.*
Fol. Dic. v. 4. p. 102. *Edgar, p. 37.*

No 215. 1726. *February.* FORBES *against* DUNBAR.

It was found, that action for relief competent to one cautioner against another, is not cut off by the septennial prescription, but runs the course of 40 years. See APPENDIX.

Fol. Dic. v. 2. p. 119.

No 216. 1728. *January.* MUIR *against* FERGUSON.

Two persons bound conjunctly and severally in a certain sum, a fourth part whereof was the one's debt, and the rest the debt of the other, and bound to one another in a proportional relief, the one was charged for the whole after the seven years prescription; who *pleaded*, That he ought to be free, in so far as he was cautioner for his co-obligant. *Answered*, The act 1695 relates only to the case, where one or more *correi* are obliged to relieve the rest of the whole debt; but where persons engage themselves not from mere friendship and facility, but upon account of having interest in the matter, the statutes gives no protection. THE LORDS found this clause fell under the act of Parliament. See APPENDIX.

Fol. Dic. v. 2. p. 116.

No 217. 1729. *December 11.* ROSS *against* CRAIGIE.

Two persons being bound conjunctly and severally in a bond, the one as principal, the other as cautioner, the cautioner was found to have the benefit of the septennial prescription, though there was neither clause of relief in the bond, nor a bond of relief intimated to the creditor at receiving of the bond, which was thought unnecessary, though mentioned in the act, the defender being bound expressly as cautioner. See APPENDIX.

Fol. Dic. v. 2. p. 115.