

1752. July 9. SCOTT of Farnish *against* ———,

THE Lords found unanimously, (*me referente* for advice,) that a cautioner who is entitled to the septennial prescription by the act 1695, is not bound to take the benefit of it, but may after the seven years safely pay the debt, and loses none of the securities he got for his relief. Therefore a cautioner in two bonds having got an infestment in lands for his relief, which the principal debtor sold long after the seven years were expired, his other creditors arrested the price in the hands of the purchaser, who raised a multiplepounding; after which only the cautioner paid the two bonds wherein he was bound and took assignments. The arresting creditors objected to his infestment, that he was sufficiently relieved by the running of the seven years, and therefore his infestment for relief was extinguished. Yet the Lords repelled the objection and preferred him.

No. 24.  
Cautioner's right  
of relief continues,  
although he should  
pay after the seven  
years.

See Garden *against* Gregory, 21st January 1735, *voce* HYPOTHEC.

See Hamilton *against* Cautioners of Menzies, 19th December 1742, *voce* EXECUTOR.

See Sutherland *against* Lady Gees and Cautioner, 6th January 1737, *voce* REPARATION.

See NOTES.

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### CHANCERY.

See JURISDICTION.—MEMBER OF PARLIAMENT.