

## DIVISION VII.

Septennial Prescription of Cautionary Obligations,  
by act 5th Parl. 1695.

## SECT. I.

Relates to Obligations for Money.

1907. *January 5.* STRANG and ROBERTSON *against* FLEET.

FLEET of Carroway in Orkney being charged on a bond of L. 1000 Scots by Strang, and Robertson his assignee, he suspends, that it was the price of lands, and that they were bound to purge incumbrances, and particularly an inhibition against Strang the disponent, served by Magnus Cromarty, which they had not done. *Answered*, The inhibition is prescribed and extinct, in so far as it is raised on a bond of relief and cautionry, and nothing done on it by the space of seven years after its date, and so prescribed by the act 1695, declaring cautioners after seven years free, if no diligence be used against them within that time. *Replied, imo*, This bond of relief is before the act of Parliament, which has no retrospect, but only to regulate subsequent cases; *2do*, I am minor, and so prescription cannot run against me; *3tio*, The act relates only to obligations given by principals and cautioners for liquid sums; but this was only a bond of cautionry for a tutor, that he should make true and faithful account to his pupil; and the act being correctory and unfavourable to creditors, is not to be extended. THE LORDS found such bonds did not fall under the act of Parliament, and so the inhibition behaved to be purged.

*Fol. Dic. v. 2. p. 115. Fountainhall, v. 2. p. 478.*

## No 205.

The benefit of the septennial prescription refused to a cautioner for a tutor that he should make true account to his pupil.

1709. *January 18.* MR DAVID BALVAIRD *against* THOMAS WATSON.

GRISSEL RAMSAY, relict of one Watson, being provided to L. 200 Scots of jointure, gets a bond of corroboration from her husband's son for payment thereof, and Thomas Watson merchant in Dundee is cautioner therein. The princi-

## No 206.

A cautioner for an heir, to the relict, for her jointure,