

It was *answered*, That the precept was from a Judge who was competent to discern in the sums contained in the registrate contract, upon which the precept followed, and the LORDS having interponed their authority to the inhibition, their deliverance made it a sufficient ground; so that the debt to which Mr Alison had right was contracted *spreta auctoritate*.

No 41.

THE LORDS repelled the objection proponed against the inhibition.

Reporter, Lord Cullen.

Act. Falconer.

Alt. Garden.

Clerk, Gibson.

Fol. Dic. v. 3. p. 320. Edgar, p. 79.

1725. July 8.

McLELLAN against ALLAN.

No 42.

INHIBITION being used by a creditor against a debtor who was cautioner in a bond to another creditor; and he having granted a bond of corroboration of his cautionary obligation, after the lapse of the seven years; it was found that the inhibition cut off the effect of this corroboration; for the cautioner being once free by prescription, could not revive the debt in prejudice of the inhibition, more than he could contract a new debt.

Edgar.

* * * This case is No 61. p. 4967. *voce* FRAUD.

1727. June.

Competition CHARLES ROW with the other CREDITORS of RUSCO.

No 43.

It was objected against an inhibition, that there was nothing in the letters prohibiting the lieges to lend their money to the person inhibited, and to take bond or security therefor; that upon that account the inhibition could not strike against posterior bonds, though by these the heritage might be evicted. THE LORDS sustained the inhibition good against these bonds, in so far as they might affect the heritage, in respect of the general clause 'inhibiting and discharging the lieges, under whatsoever colour or pretext to buy, block, or receive any other manner of way, from the debtor, any of his lands, heritage, &c. in defraud foresaid.' See APPENDIX.

Fol. Dic. v. 1. p. 472.

1739. February 1. CARLYLE against the TRUSTEES of MATHISON'S CREDITORS.

No 44.

WHERE the bulk of a bankrupt's creditors had agreed to accept of a voluntary right from the bankrupt in favour of a trustee, who, to save expense, should