

special warrant may allow a summons to be sufficient for citation thereafter, as well as they may give other privileges.

No 75.

*Fol. Dic. v. 1. p. 541. Stair, v. 1 p. 248.*

1667. December 10. HOGG *against* COUNTESS OF HOME.

No 76.

AN inhibition being served upon an obligation to warrant, the LORDS sustained a reduction thereon, though there was neither decret of eviction nor liquidation of distress; the pursuit being only declaratory, and the decret to be only effectual after eviction and liquidation.

*Fol. Dic. v. 1. p. 541. Stair. Dirleton.*

\* \* \* This case is No. 109. p. 7039. *voce* INHIBITION.

1670. July 8. HAMILTON *against* HAY.

No 77.

INHIBITION being served on a bond conditional, not to be paid but upon the creditor's doing a deed whereupon decret was given for an abatement of the sum in the bond as damage and interest, the fact being found imprestable; the LORDS found, that the said decret purified the condition, and therefore that the inhibition should stand good for the rest that was decerned; and this against a creditor of the common debtor's, though his debt was prior to the decret, but he had done no diligence before the inhibition.

*Fol. Dic. v. 1. p. 541. Stair. Gosford.*

\* \* \* This case is No 115. p. 7046. *voce* INHIBITION.

1695. December 4. ANDREW MARTIN *against* GEORGE SCOT.

No 78.

PHEEDO reported Andrew Martin writer against Mr George Scot of Gibieston, late Stewart of Orkney, who being pursued in a reduction *ex capite inhibitionis*, objected, I cannot take a term, because the bond (which is the ground of the inhibition), is not a liquid obligation for a precise sum, but only to pay 16,000 merks after count and reckoning how much of the same is truly resting; so that count must first precede. *Answered*, There is a day prefixed betwixt and which he was to have counted, which is long ago elapsed, and so the whole sum must be presumed as resting. THE LORDS found this could not stop the taking a term in the reduction, but it would have no effect till the count and reckoning were finished, if the defender offered to prove the sum was satisfied in whole or in part, and craved to count and reckon thereanent; and the

Inhibition upon an obligation to compt and reckon.