

S E C T. XXVI.

Citation in Process of Exhibition.

1611. *November 26.* LORD SANQUHAR *against* PADZANE.

No 119.

My Lord Sanquhar having pursued the relict of umquhile Padzane, for exhibition and delivery to him of the count books of the sheriffdom of Dumfries, to which Padzane was clerk; the LORDS found it not necessary to summon the heirs and executors of the Sheriff-clerk, but only the haver, because these books are public, and pertain to the Judge, and not to the heirs of the defunct.

Fol. Dic. v. 1. p. 142. Haddington, MS. No 2313.

1623. *December 6.* FOTHERINGHAME *against* FOTHERINGHAME'S Relict.

No 120.

In an action pursued at the instance of ——— Fotheringhame, as heir to umquhile Alexander Fotheringhame, uncle to the L. of Powrie, against the Relict of the said umquhile Alexander, and against certain others, who were convened at the heir's instance, for production of certain heritable bonds and obligations made to the defunct by certain persons his debtors, enumerate in the summons, the LORDS found, that the debtors needed not to be summoned in that action of exhibition, who were makers of the bonds; but sustained the process without their citation, seeing there was no execution craved against them by that pursuit, and that the relict, and others havers, were convened for production of these bonds, which were in the defunct's possession the time of his decease, as his own proper writs, and were thereafter intromitted with by the relict, or by the other defenders, who, albeit they were strangers, might be also convened for production, without calling of the makers of the obligation.

In an exhibition of some heritable writs, at the instance of an heir against his father's relict, and some other persons as havers, the Lords found that the debtors needed not to be summoned, as there was no execution craved against them.

Act. Hope, Aiton, et Craig.

Alt. Nielson et Oliphant.

Clerk, Gibson.

Fol. Dic. v. 1. p. 142. Durie, p. 87.

1627. *March 10.* DICK *against* SKELDON.

No 121.

In an action for exhibition and delivery of writs of comprised lands, at the instance of William Dick, against Skeldon, haver of the writs; the LORDS found, that a compriser not infest, could not call for delivery of charters and sasines of

A compriser cannot seek for production of any