

No 8.

** Haddington reports the same case.

Ross, assignee constituted by Mr Alexander Syme's wife, pursued the Lady Coldingknows for reduction of some infestments obtained by her from the Laird of Elphinston, after inhibition served by them or their authors. Coldingknows offered to improve the inhibition. It was *alleged* that nothing could be improved but the publication, because the personal charge was not necessary against the contractor, and alleged the practice betwixt the Laird of Saintmonans and his uncle. Nevertheless, the LORDS found, that in inhibitions, it was necessary to inhibit the party contractor personally, or at his dwelling place, because the command of the letters contains that direction.

Haddington, MS. No 2566.

No 9.

1615. January 31. LORD TULLIBARDINE *against* LAIRD OF CLUNY.

IN an action of reduction *ex capite inhibitionis* pursued by my Lord Tullibardine *contra* the Laird of Cluny, the Lords repelled an exception proponed upon a prior contract and inhibition, because the prior contract contained not a bond to infest, but a bond for sums of money; and would not receive the inhibition by way of exception, but repelled, *salva actione*.

Kerse, MS. fol. 60.

No 10.

1615. June 15. THORNATON *against* BULTY.

IN an action of suspension betwixt Donald Thornaton and Robert Bulty, minor, against whom decret was recovered as charged to enter heir to his goodsire; the Lords received this renunciation by way of suspension; and also received a renunciation, with this limitation, 'renounces all lands and successions pertaining to his goodsire, except those lands which are contained in his father's contract of marriage; and wherein the goodsire is obliged to infest his father;' whereupon inhibition was used, because that the LORDS found, that the contract with the inhibition preceding the debt was *titulus singularis*.

Kerse, MS. fol. 60.

No 11.

1616. July 16. INGLIS *against* LAIRD OF CORSTORPHINE.

IN an action of reduction *ex capite inhibitionis* pursued at the instance of Thomas Inglis *contra* the Laird of Corstorphine, the LORDS found, that an in-

hibition could not be extended but to the lands lying within the sheriffdom where the inhibition is used, and that the same is not extended against the inhabitants of the sheriffdom where the inhibition is used, but that they might buy and acquire lands lying in their sheriffdoms, or otherwise acquire bonds for sums of money, and thereafter comprise for the sums contained in these bonds.

No 11.

Kerse, MS. fol. 60.

1622. January 18. METHVEN *against* AN APPARENT HEIR.

No 12.

A SUPPLICATION being given in by Methven, who was cautioner for a tutor-dative, craving inhibition against the apparent heir of him who was bound for his relief of that caution; the bill was also refused by the LORDS, because they thought according to the form which is in use, that the same could not be granted against an apparent heir; as no action, charge, or execution could be used, or sought against him, *hoc nomine*, as apparent heir; until such time as he might be constituted such a person as might represent the defunct, who was bound, or charged to enter heir to him.

Durie, p. 10.

* * * The contrary was decided, No 4. p. 6942.

1625. January 11. HAMILTON *against* KIRKPATRICK.

No 13.

THE LORDS would not grant an inhibition to the wife against her husband upon a contract of marriage. Inhibition is personal and binds not the heirs.

Spettiswood, (INHIBITION.) p. 175.

* * * See Durie's report of this case, No 254. p. 6048. *voce* HUSBAND & WIFE.

1627. January 24. LORD ERSKINE *against* ERSKINE'S WIFE.

No 14.

THE warrant of the inhibition is the letters directed upon the Lords deliverance, which must be kept in all points precisely, and executed accordingly; therefore, in an action between my Lord Erskine and one Erskine's Wife, (Glossburn's sister) she having intented reduction of a comprising of a house of her husband's in the Canongate, *ex capite inhibitionis*; it was *excepted*, That the inhibition was not duly served, in so far as it was not served at the market-cross of Edinburgh, as the letters ordained.—*Replied*, The ordinance was in respect that Sir James Erskine, (the party inhibited) was out of the country first, but afterwards being come into it, the party did inhibit him personally, which was a better way to notify it to him; for as for the lieges they were certiorated by