

No 27. pursuer *answered*, That a reduction *ex capite inhibitionis* hath only effect as to the sum upon which the inhibition proceeded, that it may affect the debtor's real rights, and so is but a qualified right of reduction *pro tanto*, and can be founded on by none but those who have right to the sum on which the inhibition proceeded.

THE LORDS repelled the defence, and assigned a term to the pursuer to produce, or otherwise ordained certification to pass *contra non producta*.

*Fol. Dic. v. 1. p. 476. Stair, v. 2. p. 733.*

1680. November 27. JOHN HAY *against* LADY BALLEGERNO.

No 28. IN John Hay of Murie's declarator of recognition against the Lady Ballegerno, Poultry Fotheringham, and other creditors, the LORDS 'found an inhibition null, because it bore several knocks, and not six knocks, as the act 75 Parl. 1540 requires, (but that act speaks only of actions), though they offered to prove by the messenger and witnesses, that the six knocks were really adhibited.'

*Fountainhall, v. 1. p. 119.*

\* \* \* See Stair's report of this case, No 123. p. 3773. *vide* EXECUTION.

1682. November. MOUTRES *against* WILLIAM PORTEOUS.

No 29. A DEBTOR, who was inhibited in the year 1632, having granted a bond to another person in the year 1634, upon which a comprising was led in the 1642, the inhibitor raised reduction of the comprising *ex capite inhibitionis* in the year 1643.

*Alleged* for the defender, That the inhibition was prescribed.

*Answered* for the pursuer; That he was not *valens agere* till the apprising was led, till which time there was nothing to be quarrelled by his inhibition.

*Replied*; The bond upon which the apprising followed being granted in *anno* 1634, the inhibitor might have taken some document upon his inhibition.

*Duplied*; The inhibitor not being prejudged by the bond, but by the apprising, he had no reason to use his inhibition till after the apprising.

THE LORDS found the answer and duply relevant.

*Harcarse, (INHIBITION.) No 630. p. 173.*