

No 72.

tion, delivered the said letters against him; notwithstanding that such Lords and great Barons (are said to be privileged), *quia videbantur tales literæ quasi defamatoriæ, ut ipsi allegebant*; but the mair party of the Lords said nay, for they were conform to the practique and common law; and therefore no man should think him hurt or defamed where there is nothing against him done but by law and reason.

*Fol. Dic. v. 1. p. 472. Sinclair, MS. p. 54.*

No 73.

The Lords prohibited registration of an inhibition till trial were taken what ground there was for it.

1699. February 15.

JOHN MURRAY *against* AGNES KELLO.

MR JOHN MURRAY, commissary of Peebles, advocate, gives in a complaint, that Agnes Kello, relict of Scot of Broadmeadows, (whose daughter he had married, and she was deceased without children,) now spouse to Brown of Legertlaw, had served an inhibition against him upon a dependence for her jointure, and which was most malicious, she being absolutely secured in her liferent lands, and that the Lords have been in use to stop such unjust attempts, especially inhibitions incumbering mens' estates, and likewise touching their fame and reputation. *Answered*, Diligences ought to have a free course; and to stop these were as great a failure in the administration of justice, as the stopping the circulation of the blood at the *vena cava* threatens a distemper in the body; and the said Mr John has a right to these lands, and so must be liable.—THE LORDS remembered they have oft interposed where inhibitions are groundless, (as in Stanhope's case against the Lady Kincardine and others\*) therefore they discharged the registration of it till it should be tried what ground there was for it.—THE LORDS took the same method this session about an inhibition served by one Govan against Mr John Frank, advocate. See Stair's Instit. b. 4. tit. 50. where he treats of malicious inhibitions.

*Fol. Dic. v. 1. p. 472. Fountainball, v. 2. p. 44.*

1704. February 23.

Countess-Dowager of CASSILIS *against* The Earl of CASSILIS, and his Tutor.

No 74.

Found in conformity with the above.

THE Countess-dowager of Cassilis, by her contract of marriage, being provided to a liferent of L. 400 Sterling *per annum*, and the rent falling the one half short, she raises a process against the present Earl of Cassilis, and the Earl of Ruglen, his tutor, to implement, warrant, and make up the deficiency; and in regard the tutor was selling land to pay off the debt, she raised and executed an inhibition against them to stop the sale; upon which a bill is given into the Lords by Cassilis and his tutor, representing, that the Lord Kennedy, his father, was publicly infest in the estate, before his grandfather entered into that contract-matrimonial with the present Countess-dowager, and so could never bur-

\* Examine General List of Names.