

No 16. The Court, without entering into the question how far a sole arbiter is bound to decide, were clear on the grounds stated by the defender, that against one of two arbiters the conclusions of the action were ill-founded.

THE LORDS unanimously affoizied the defender.

Lord Ordinary, *Swinton*.

A&R. *H. Erskine, D. Catheart.*

Alt. *Solicitor-General Blair, Davidson.*

Clerk, *Pringle.*

Davidson.

Fac. Col. No 231. p. 537.

* * * See Cases on the subject of this Subdivision, *voce* OBLIGATION.

Summoning of Witnesses.

No 17.
The Lords will give warrant to arbiters, authorising them to summon witnesses.

1670. *January 6.*

KER of Cavers, and SCOT of Golden-berrie, Supplicants.

KER of Cavers, and SCOT of Golden-berrie, being arbitrators nominate by a submission, did, by bill, crave warrant from the Lords to authorise them, to summon witnesses to compare, and depone before them in the cause in which they were arbiters.

Which the LORDS granted.

Fol. Dic. v. 1. p. 50. Stair, v. 1. p. 658.

No 18.
A cause being in dependence before arbiters, the Lords granted diligence by horning, at the instance of one of the submitters, against third parties, to exhibit writs necessary.

1696. *June 26.*

WILLIAM STEVENSON *against* YOUNG of Winterfield.

WILLIAM STEVENSON, late bailie of Edinburgh, gives in a petition, representing he had a process depending against Young of Winterfield, which both parties had submitted; and for clearing the arbiters there were some papers in third parties hands, which were necessary for instructing his claim, and the passive titles; and therefore craved the Lords would grant a diligence by horning, to cause them exhibit those papers.—THE LORDS, considering that all methods should be used for facilitating the extinguishing and stopping of pleas, they granted the desire of the bill; especially seeing it is observed by Stair, that the Lords, on the 6th of January 1670, between Ker of Cavers and Golden-berrie, (No 17.) granted letters to charge witnesses to compare, and depone before arbiters; and this seems to be a case equally favourable.

Fol. Dic. v. 1. p. 50. Fountainhall, v. 1. p. 723.

1741. *July 16.*

GORDON of Troquin and NEILSON of Corfack, Petitioners.

No 19.
Diligence to cite witnesses to appear before arbiters, limited to the shire.

THE LORDS never grant diligence to cite witnesses from a different shire, to appear before arbiters, but only to cite such to appear before them as live in the same shire; and as to such as live in any other shire to appear before any com-