

- No 3. *ad deliberandum*, because exhibitions for that effect are favourable, and can prejudice no creditor. THE LORDS did repell both the defences, and sustained the summons for exhibition *ad deliberandum*, which seems hard as to the second allegiance of a mixtion with the defunct's heirship; the reason for granting summons for the exhibition *ad deliberandum* to apparent heirs, being chiefly founded upon that principle that *res est integra* by their abstaining from meddling, whereas by a mixtion and intromission, which infers a passive title, they ought not to deserve that favour, but should be forced to enter heir, that lawful creditors be not involved in pleas whereof the event is uncertain.

Gosford, MS. No 732, p. 449.

No 4.
An apparent heir was allowed the custody of the writs of which he had obtained exhibition *ad deliberandum*.

1675. February 16. RATRAW against —

AN apparent heir having, upon an exhibition pursued by him to the effect he might advise whether he would be heir, obtained the writs to be exhibited in the clerk's hands; did thereafter upon a bill desire the samen to be delivered, pretending that he had use for the writs for serving himself heir; and no other person could have any interest for keeping them but himself.

THE LORDS granted the desire of the bill; albeit some of the LORDS thought, that the writs could not be delivered to him, unless he were heir, but only such as he should have use of for his service upon a ticket to the clerk to re-deliver the same, if he should not be served heir within a certain time; and that the creditors had interest, seeing the apparent heir, if he should resolve not to be heir, might embezzle and put the writs out of the way, in prejudice of comprisers.

Dirleton, No 258, p. 125.

No 5. 1684. February 25. SCOT against FORREST.

IN the action of exhibition *ad deliberandum*, pursued at the instance of Scot against Forrest, it being alleged for the defender, that the pursuer, being only heir of provision, could not pursue an exhibition *ad deliberandum*, it being only competent to the apparent heir of line;—THE LORDS sustained process at the pursuer's instance, albeit heir of provision.

Fol. Dic. v. i. p. 283. P. Falconer, No 86, p. 59.

* * * This case is reported by Harcarse, *voce* INDUCLÆ LEGALES.