

No 90. execution of the inhibition doth put the lieges *in mala fide*; and after the same is complete, and thereby the debtor and the lieges are inhibited to give and take rights, the inhibition *ipso momento* thereafter is valid and perfect; but *resolvitur sub conditione*, if it be not registrated in due time.

Clerk, Hay.

*Fol. Dic. v. 1. p. 557. Dirleton, No 254. p. 122.*

\* \* \* Stair reports this case :

CRUICKSHANKS pursues a reduction of a wadset right granted to Watt by their common debtor after inhibition, upon this reason, *viz. ex capite inhibitionis*, as being posterior to the publishing of his inhibition. 'It was *answered*, not relevant, unless it were libelled posterior to the registration of the inhibition; for the lieges cannot know inhibitions but by the registration. The pursuer *duplicated*, That if this were sustained, all inhibitions would be evacuated; for after the publication thereof, the debtor would no doubt dispone to others before the registration; but the pursuer hath libelled his reason, as it hath always been sustained.

THE LORDS found the reason relevant from the publication of the inhibition.

*Stair, v. 2. p. 321.*

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1686. March 16. Bailie GARTSHORE *against* Sir JAMES COCKBURN.

No 91.

A CREDITOR having executed an inhibition against Sir Walter Seaton his debtor, personally, upon the 1st of February, and published it at the market-cross of Linlithgow upon the 4th, registrated the same upon the 6th day. The debtor, upon the 2d of the said month of February, subscribed a minute of sale of his lands to another creditor, which was quarrelled both as a gratification of one creditor after inhibition at the instance of another, contrary to the act of Parliament 1621, and anticipation of the inhibitor's diligence when he was *in cursu*.

*Answered*; The inhibition was not registrated till four days after the minute; and diligence is only to be considered after it is public by registration.

THE LORDS reduced the minute as a gratification to a creditor, and unlawful anticipation of another's diligence.

*Fol. Dic. v. 1. p. 559. Harcarse. Fountainball.*

\* \* \* This case is No 143. p. 1051, *voce* BANKRUPT.