

1707. December 23. PRINGLE against JOHNSTON.

MARGARET and Mary Pringles, daughters to John Pringle of Woodhead, pursue Robert Johnston of Straiton, in an exhibition of papers *ad deliberandum* before the Sheriff, and obtain a decret, which he suspends on this reason, he was not bound to exhibit them, because they were registrate, and in *publica custodia*; and he condescended on their dates, and they might extract them. Likeas, they were common evidents to them both, and he had greater interest in them than they; and Stair, *lib. 4. tit. 33.* affirms, that this is a good defence against *deliberandums*. *Answered*, It was not competent now after a decret, and however the condescence on the date of a registration was sufficient in a reduction, yet it had not yet taken place in such exhibitions. THE LORDS sustained the defence as to any writs registrate in the Session-books in Edinburgh, but not as to writs in the Chancery, or inferior courts, and ordained the condescence *quoad* these to be taken in; and though it looked too contentious to put the parties to so much unnecessary expense in extracting, yet the defenders having an interest in the papers did much influence the decision.

Fol. Dic. v. 1. p. 285. Fountainball, v. 2. p. 406.

1715. June 30.

SPARK against BARCLAY.

DEFENDERS, though strangers, were ordained to exhibit all writs in their hands granted to or by the pursuer's predecessors.

Defenders must exhibit all writs in their hands, whether infestment has followed or not.

Fol. Dic. v. 1. p. 284. Bruce.

* * * See this case, No 10, p. 3988.

1756. November 30.

JOHN VINING HERON against PATRICK HERONS elder and younger of that Ilk.

IN an exhibition *ad deliberandum* at the instance of an apparent heir-male, the Lord Ordinary pronounced the following interlocutor: ' Finds that the pursuer, as apparent heir-male, is entitled to call for production of all writs granted to, or conceived in favours of his predecessors, of or concerning the lands libelled, and of all grounds of debt contracted by them, in favour of third parties; and generally, of all rights, debts, and diligences which may be either profitable or hurtful to the pursuer, as heir-male and of provision

VOL. X.

22 Z

No 35.

It is a good defence against exhibition that the writs called for are registered in the books of Session, the defender condescending on the dates of the registration. This defence was not sustained as to writs registered in Chancery, or in the books of inferior courts.

No 36.

No 37.

In an exhibition *ad deliberandum*, found incompetent to require a general production of ' all rights, ' debts, or ' diligences, ' profitable or ' hurtful to ' the pursuer.'