

the other three till one be cited to represent the said Catherine, seeing all the four must be in the field, and therefore craved, seeing he could not divide his process, and that he could not be obliged to raise a new one, because of this unforeseen emergent of one of the heir's deaths, that the Lords would grant diligence to cite the next eldest son of Thornton *cum processu*, and his father as tutor and administrator of the law to him, that he be not put to a separate process against him, or to wait the *annus deliberandi*, ere he can be cited; and seeing the Lords, by the late act of sederunt in November last, have declared, that if the debtor, or his apparent heir, or other defenders, shall die, the process shall stop no longer than till the next apparent heir be cited on a diligence, without waiting the outrunning of the *annus deliberandi*, and that the parity of reason was the same in that case. But the Lords thought there was a great difference betwixt processes of sales and ranking, to which the act of sederunt only related, as being summary processes, and the constitution of a debt against apparent heirs, which was the present case; and remembered that, in the case of Sir William Nicolson, the creditors were twice stopped by the death of two apparent heirs, and put to stay the year of deliberation; and, on this account, they refused the said Mr Andrew Ramsay's bill, and would give him no diligence to call the next heir till the year and day were run.

Fol. Dic. v. 1. p. 468. Fountainball, v. 2. p. 720.

1713. November 19.

EARL OF DALHOUSIE *against* LORD HAWLEY and His CHILDREN.

THE LADY HAWLEY having died during the dependence of an action of reduction and declarator, at the instance of the Earl of Dalhousie, against her, the LORDS refused to decern in a transference of the said action against the Lady's son and apparent heir *intra annum deliberandi*.

Fol. Dic. v. 1. p. 468. Forbes, MS. p. 2.

1749. February 25. STEWART in Towiemore *against* ANDERSON.

THE deceased Robert Stewart in Towiemore, having contracted great debts, a scheme was laid by his friends to transact the debts, whereof eases were expected, and Alexander Anderson and others undertook the trust. Accordingly, Anderson transacted the debts in his own name; but, as no writing had intervened, his son pretending ignorance of his father's engagements, refused to communicate the eases.

No 39.
till the year
and day were
run.

No 40.

No 41.
Within the
year no step
can be taken
against the
heir, whether
his appear-
ance would