

No 84. and that sundry decreets had been found null for want of this probation, seeing *actore non probante*, the *reus* comes of course to be absolved; yet the LORDS allowed the pursuers still a diligence to prove the time of their father's death, and of their expulsion; for so long as they staid *in familia* after his decease, they could crave no aliment, and declared they would summarily advise it, that it might appear *quo tempore* their aliment shall begin.

Fol. Dic. v. 2. p. 182. Fountainhall, v. 2. p. 522.

No 85. 1714. January 20. LOCKHART of Carnwath *against* CREDITORS of Kersewell.

THE LORDS refused to sustain it as a reason to reduce a decret of ranking, that after the date thereof, the interests of some creditors were taken in and ranked, without putting up a new decret in the minute-book, in respect that by the taking in and ranking of these interests, there was no new scheme or class made in the said ranking, but they were only joined to the classes of the creditors formerly ranked.

Fol. Dic. v. 2. p. 182. Forbes.

* * * This case is No 8. p. 8569. *voce* MEMBER OF PARLIAMENT.

No 86. 1753. March 7. Mrs ISOBEL DOUGLAS of Kirkness, Supplicant.

Informations given into the Court of Session must be engrossed in the decree, if either party insist for it.

IN the process betwixt Mrs Isobel Douglas and William Douglas concerning the estate of Kirkness, decided No 38. p. 4350. Mrs Isobel Douglas gave in a petition to the LORDS, setting forth, That William Douglas had appealed the cause to the House of Peers; and, as the cause had been more fully, and somewhat differently stated in the informations than in the minutes of debate before the Lord Ordinary, craved that the Lords would ordain the informations to be ingrossed in the decret.

William Douglas appeared, and *objected*, That the informations were no part of the process, and therefore could not enter the record; and though sometimes of consent they had been engrossed in decreets, or, after a hearing in presence, have been inserted in place of Inner-house minutes; yet, in this case, they could not be taken into the decret, as there had been no hearing; and he would not consent to the extracts being swelled by informations; which would occasion an additional and unnecessary expense.

Observed on the Bench; That it was reasonable that whatever had been before the Court, should be engrossed in the decret; and not only the parties, but also the Court, had an interest that it should be so, in order, that the House of Peers might know on what the judgment of the Court of Session had proceeded.