

1742. *February 19.*

COLONEL M'DOUALL *against* MR CHARLES M'DOUALL.

No. 9.

A CREDITOR of a defunct citing a nearest of kin intromitter within the six months, who afterwards confirmed about the seventh or eight month, no other creditor having done complete diligence within six months; this citing was not found sufficient upon the act of sederunt 1662, to give the creditor a preference to all the other creditors. *Vide inter eosdem, voce HEIR CUM BENEFICIO. Vide No. 18. (See DICT. No. 9. p. 3936.)*

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1742. *July 21.* CREDITORS OF JOHNSTON *against* DICKIESON.

No. 10.

THE doing diligence within six months does not give an absolute preference to the user before all the other creditors, but only where another has used complete diligence by confirming or otherways, prefers all diligences within six months *pari passu* with him; and therefore where an executor *qua* nearest of kin was confirmed, and a creditor cited that executor within six months, and no other creditor used any diligence in that time; the Lords notwithstanding preferred them all *pari passu*, none having used complete diligence.

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1743. *November 2.* ARMSTRONG *against* SIR DUNCAN CAMPBELL, &c.

No. 11.

AN executor suing here, on letters of administration in Ireland, must confirm here before extract.

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1743. *November 22.* ANDERSON *against* ANDERSONS.

No. 12.

A DISCHARGE by a son of a debt due by his father and of his bairns part of gear, or of all he could claim of or from him, his heirs, executors, and successors, by and through his decease, or from any cause or occasion whatsoever, found not to exclude that son from succeeding as nearest of kin to his father in the deeds part. *Vide RENOUNCIATION TO BE HEIR.—MOVEABLES.—SUCCESSION.*