

1683. *November.* ALEXANDER MEW *against* MR PATRICK CRAW.

FOUND, that the ten years allowed to creditors for redeeming the rights of apprising acquired by apparent heirs, run not from the date of the rights, where they are latent or in trust, but from the time the apparent heir made them public by infestment, or some judicial process; for, otherwise, the Act of Parliament might be easily eluded: and here the apparent heir had been several years in possession after his predecessor's death, which might have given some suspicion to the creditor; and it was ten years since the date of the latent right; but the same was never owned till the elapsing of ten years. *Vide* No. 340, [Young Posso *against* his Brothers, 31st January 1682.]

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1683. *November.* MR JOHN DEMPSTER *against* MR HARY MORISON.

A DEBTOR having gratified one creditor, after another had done diligence, it was alleged for the creditor preferred, that the sum paid had been acquired by the common debtor after the other creditor's diligence. Answered, That a debtor cannot gratify one creditor in prejudice of another's diligence, by paying money acquired after the diligence, more than by payment of sums in his person before, as an inhibition affects lands afterwards acquired in the same shire where it was executed. The Lords repelled the allegiance, in respect of the answer. *Vide* No. 142, [Nicolson *against* Provost Kinloch, February 1686.]

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1683. *December.* MR JAMES MIRK *against* MARY BRUCE.

IN the redemption of an adjudication, the debtor alleged he could not be liable to pay the expenses, in respect the sums adjudged for stood arrested the time of the adjudication, and he could not have paid till the arrestment was loosed. Answered, The debtor has himself to blame, for suffering the creditor to expedite his adjudication, without compearing to allege upon the arrestment; for, if the debtor had compeared, and objected the arrestment, or intimated the same, it would have been loosed by the creditor, there being no ground for it; and, therefore, the debtor ought to refund his expenses. The Lords were of opinion that the adjudger should have his expenses refunded; but the parties agreed among themselves before interlocutor.

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1683. *December.* JAMES WOOD *against* MR PATRICK REID.

ANDREW Balfour, who was bankrupt, having, without any onerous cause, as-