

1756. *July 16.* HEIR OF KINMINITY *against* THE CREDITORS.

THE LORDS, in this case, unanimously determined, that if an apparent heir for three years possessed lands, in the right of his apparency, or if another possessed them by a right derived from him, these lands were liable to his debts, although it might be true that another had a better right to them,—as, for example, that the widow liferented them, and so might have turned the heir out of possession of them, which was the case here; for the Lords were of opinion that all that the statute required was possession as apparent heir, but it did not require that nobody else should have a better title.

1756. *November 16.* COMPETITION of the CREDITORS upon the FORFEITED ESTATE of NAIRNE.

[*Fac. Coll.* No. 216.]

It was objected to the execution of an inhibition, that it bore “that the messenger left and affixed in the lock-hole of the door, after he had made six several knocks upon the said door, a copy of the letters, because he could not personally apprehend the party.”

The President and Lord Justice-Clerk were for sustaining the objection, because, they said, it confounded two kinds of execution which were quite distinct in our law: the first was, when the messenger was admitted, and left a copy with the wife or servants; the second was, when he was denied entrance, and afterwards affixed a copy to the door: because this execution did not bear that the messenger had not been admitted. But Prestongrange said, that the giving the six knocks at the door, and affixing the copy, implied that he had not been admitted, and therefore it was an execution of the last kind. And with him agreed the majority.

1756. *November 23.* FORBES *against* LADY STRATHMORE.

[*Elch.* No. 9, *Proof.*]

IN this case, which was a declarator of marriage against the lady, the President gave it as his opinion, that if a marriage was made in a foreign country, in such a way as to be a valid marriage by the law of Scotland, though not by the law of the country where it was celebrated, it will be, to all intents and purposes, a good marriage in Scotland.

In this case the marriage was said to have been clandestinely made in Hol-