

The King's power to give a writ of Habeas Corpus. 1377. 1378. 1379. 1380. 1381. 1382. 1383. 1384. 1385. 1386. 1387. 1388. 1389. 1390. 1391. 1392. 1393. 1394. 1395. 1396. 1397. 1398. 1399. 1400. 1401. 1402. 1403.

Tit. 2.

Competition of personal rights and Diligence.

By our Customs personal Creditors are Regularly preferred from
 form to the priority and posteriority of the respective Diligence, without
 Respect to the dates of their rights or debts or personal or real property
 :ment, except that the King is not to suffer prejudice thro' the Request of
 his officers. For it is the Interest of a Nation to know whom men may
 Contract with, which were a thing impossible did the Dates of obligations
 afford Preference.

I have treated in the proper places concerning the Competition
 of personal Creditors running between a Assignor, actual or virtual,
 actual Assignee and Assignee. pag. 1154. 1155. 1156. 1157. 1158. 1159. 1160.
 how an equality is kept among Creditors Confirming or doing diligence
 within 6 Months after the Common debt or decree. pag. 156. How debts are
 preferable to His Majesty's, Legitimate, or Legacies pag. 156.
 What debts affect heirs, and what Executors pag. 157. What Preference is
 given to Creditors of the Decedent competing for his Personal estate with the
 Creditors of his Heirs. pag. 158. What debts are privileged. pag. 159.

Some personal Creditors are privileged, that is, the Nation
 of their Credit makes them to be preferred before other Creditors, even before
 who have used prior Diligence, and among these are privileged, that
 are some who have preference before others. The Kings customs of his
 private goods are preferred to other private debts of the owner. What
 :curity had been given for payment of the Customs at the time of the Entry.
 For his Majesty's officers may either take themselves to that Security
 to the Merchant, or to the goods where Exalt unpaid for 10 Jan. 1671.
 Debt contracted. But in a Competition of the Creditors of a Bankrupt
 collector of the duty, no preference was allowed to one deriving right
 from the General Receivers to a publick debt owing to the King by the
 common debtor, for his Submission with the duty, and payment thereon
 by the assignee upon their Discharge and assignment to him 8 Feb.
 1706 Hamilton of Wigham contra Creditors Eliand. Because 1/2
 : but the Collector was liable to the personal Diligence of being quere-
 :red upon for such a publick debt, the particular Quota of the Duty
 imposed upon the Ship, doth affect as a real burden only his estate
 in that Ship according to his proportion as an ordinary creditor
 2/2 What ever might have been pretended, had the debt been still
 owing

owing to the King: yet payment simply made to the King extinguishes the
 the privilege if any were, tho' the debt itself might subsist as a private
 personal debt, and those liable in Relief to the King. Formerly a Relief
 used always to be preferred to all personal Creditors (tho' having done
 more Diligence) for the provision in his Contract of Marriage 8 Feb.
 1662 Crawford contra E. Murray 20 January 1671 the Creditors of
 Brown. But the latter was no preference to her Assignee, tho' Creditors,
 except according to the priority of their Diligence. 11 Feb. 1671. With contra
 Citta 19 Feb. 1713. Allyn contra Creditors of the same. This judgment of the
 Lords was preferred to the power of the Hospital for giving to them to other
 Creditors in More Dividends 20 January 1671 the Creditors of Brown
 the hospital's preference to the Creditors of the same. 18 Feb. 1685.

Tit. 3.

Competition of real rights and Diligence.

In a Competition of real rights and Diligence, no
 : claim should be given by the Lord to any of the parties until
 a Decree of Justice is made by the Lord's Court, unless there appear
 a clear Title out of which the claim may be made, without prejudice
 to any other of the parties. Tho' there may be a Title in Equity to the
 : land, or part of land, but not a Title in Law, yet such a Title in
 Equity will be sufficient to give a Title in Law, but not a Title in
 : Equity. See the Statute in the Annual acts of the sessions competing
 act of seder. 21 July 1670.

In Competition persons are in the for their Interests
 who produce Infeudments to themselves or to their predecessors or An-
 : thors. But then either party must instruct a progress of their right
 from the Common Author's in which case neither of them may quar-
 :rel the Common Author's right on which their own is founded. Tho'
 a Common Author appears in the King, who is Supreme superior
 and first Author of all Infeudments, the progress is made to the King
 the not instructed, is presumed presumptive Lord & Justice. Be-
 : cause the King claims not the property of any land, except the An-
 : nexed property, and what falls to him by forfeiture, recognition,
 Bastardy, or as Infeudment, or by Acquisition *languam qui-*
 : libet. Stat. lib. 4 Tit. 35 § 3. Whereby the Competitors progress
 a Common Author appears, the first original right is prefe-
 : rable albeit all the progress thereof be not completed by Infeudment