

the Year of Deliberation act 6. Ann 6. S. 4. Either in Actions upon a Charge to enter heir, or in Reductions or Actions Declaratory or otherwise which require no charge to enter; because in these he cannot defend without behaving like a creditor by founding on his Predecessors Right for Expiscating where of law gives him a Year 26 June 1667 contra Peterson. But Citations upon a summons given within the Year to appear on a day without the Year is sustained 26 June 1667 Blair contra Peterson Stair lib. 4. Tit. 8. 56. Citation upon a summons of Declarator of Non entry given to an Apparent heir within Annus Deliberandi, whose the days of Apperance was the Year, was found not to intitle the Superior to the full rent of Vassal lands from the Citation 29 July 1770 Bailie of East Lothian the Brown of Leids. Because if the Superior might Compel the Apparent heir to enter within the Year or the pain of a year's rent he should thereby have no benefit of the Year of Deliberation. This point of a Year to deliberate being introduced in favour of Apparent heirs may pass from either Expressly or tacitly. It is pass from Expressly by Renouncing to be heir within the Year; when pass upon a Charge to enter by a creditor of the Deceased; who may then upon obtain Decree Cognovitio causa and ad iudice hereditatem centum within the Year 14 July 1631 Blair contra Browns Stair lib. 1. par. 1. Apparent heir doth pass from this Priviledge tacitly by entering or appearing as heir within the year, after doing whereof he hath no time to deliberate 6 Feb 1677 Hamilton contra Brown 29 June Edgar contra Halliday 11 Novemb. 1694 Cairns of Wallace of Ellen contra Blair & Cochrane 14 July 1631 Blair contra Browns Stair lib. 1. par. 1. Entree is liable to be pursued even for movable debts within the Year of Deliberation act 7. 6. Par. 6. S. 4.

In England Apparent heirs have no Necessity of this to deliberate for they are liable only so far as they have a defect.

Sect. 3. Exhibition and Deliberandum

In the End an Apparent heir may know the Condition of his predecessors estate, and what burdens he lay under, in order to deliberate whether it is Expedient for him to enter heir to pursue an Action called Exhibition ad Deliberandum. The law is a summons of Exhibition ad Deliberandum

The Apparent heir in an Exhibition ad Deliberandum should not to pursue any title, or to prove his Relation or proximity of blood, which passeth as Nocturnum without proof, because it is presumed that No man would put himself to the Expence of such a procedure without having Interest; so that a Decree in absence against the Defendant is not valid for Not Instructing the pursuer's Relation Stair lib. 3. Tit. 6. S. 1. In fine. lib. 4. Tit. 3. 3. S. 5. But the pursuer of such Action if he be a forreiner and not a Native of Scotland, is put to prove his Relation to the Deceased by an Attestation Declaration of the Magistrate or Judges of the place where he dwells 17 Decemb. 1627 Donaldson contra Browns. Not only an Apparent heir of land, but also an apparent heir Male 10 Feb. 1714 Crawford contra Crawford's Son an apparent heir of Provision 25 Feb. 1674 Col contra Correll may pursue this Exhibition, because tho' an heir of land he is liable to dole pro mo loco not he being Dissatisfied tho' other heirs are liable to dole pro mo loco And there may be debt where with the heir Male or of land is directly Burdened, without any Relief from the heir of line. Nor was an heir Male Deprived of this priviledge by Inmixing himself and behaving as heir; because tho' he were past due liable to a creditor of the Deceased, he must have this Release ad Expiscandum if it be convenient for him to enter heir, in order to doq