

An Active Title to pursue for every thing taken to him by the Deceased and found his Heir against the Claim of all debts Debent will take it after his Not Expressly binden, But an offer to fulfill that there is a Heir his Heir, it Relevant to stop process at his Heir 10 Feb. 1714 Crawford contra Crawford. An Apparent Heir may pursue Exhibition ad Deliberandum along time before he enters within the Year of Deliberation 26 Feb. 1633. L. Swinton contra Westmest, or after the Year is Expired. Hair. 26. 3 Feb. 5. S. 1. lib. 1. 33 S. 5.

The Pursuer may Certainly call for a sight of all rights or without Exception granted to his Predecessor, or granted by him to his Wife Children or servants in his family, to look upon the 8. month followed 6 Decemb. 1661. Gairlizer contra born Reg. 3 Feb. 1. Adcock contra Stuart. For Rights in favour of persons in the family at his death seem in a manner to be in his Custody, and are thought granted Intuitu Mortis without any Invenio Bank. perhaps Wanting a Dispensation as to the Not Delivery. But Rights whereupon Infeffment hath followed granted by the predecessor to Strangers may be Craved to be Exhibited, hath been made recorded. Because the Apparent Heir may sufficiently Inform him about the by suggesting the publick Regiters. An Apparent Heir indeed claim Exhibition of Writs granted by his predecessor to any person whatsoever, if they were Retired and dying by his predecessor at the time of his Decease, because then they were his Writs, and want to Annulations or Discharges of the Retired Writs 22 Decemb. 1675 Maxwell contra Maxwell. An Apparent Heir may Infeffment call for Exhibition of all Writs that were in his predecessor's possession quoad Mors at his death, without prejudice any party having Interest to Crave Delivery of these Writs, if they belong to them 10 January 1665 Reid contra Reid. The Lord Hailes 3 Feb. 5. S. I. Doubt not, that all persons will be obliged to provide bond or personal obligations Importing a Debt upon the Deceased, that might affect the Apparent Heir if entered, as was found in the case of bonds granted by the Deceased to Strangers 26 Feb. 11 L. Swinton contra Westmest. Because otherwise the Apparent Heir could not balance the assets and debts of the Deceased, he knows whether it will be admissible to enter or not. But that Honour Lawyer is not for Exposing to Apparent Heirs the Characters of Strangers who have purchased Lands from the Apparent predecessor on pretext of the Warrantice that might bind them. And by several Decisions, the Defender in an Exhibition ad Deliberandum was found Not liable to produce any Writs whether personal or Real, granted by the predecessor to his

or persons extrafamiliam 6 Decemb. 1661 Gairlizer contra born 22 Decemb. 1675 Maxwell and her Husband contra Maxwell 1672 January 1706 Buchanan contra M. Montrosser because law allows Men to keep their own Evidents where in Another can pretend No Interest as Plest as they please 8 Nov. Edre contra Schreder to serve and thers Convenience. And the Lord sustains absolute Dispositions Devising the Deceased, to exclude all further Exhibition of Writs granted to him as to the subject Disposed: Nulli Minus can Exhibition be Allowed against any stranger of his Deceased as to him by the Deceased. For the opening Merid Quarter Plest at London to Apparent Heir ad Expressandum, rather than at Deliberandum, to Discover the Plans and Weakness of the Rights, or furnish Occasion whereupon they may be quashed is Not to be allowed: Seeing that May is sought by one 1000 1005 his Deceased to enter, or who, having got Exhibition, may buy and make place for another; and so forth one may succeed to another and so on Exhibitions to the endless vexation of Strangers, who had ever any Dealing with their predecessors Nor is there so great Necessity, or Obedging to a promiscuous Exhibition ad Deliberandum in favour of Apparent Heir, when they may enter cum Beneficio Inventari act 29 Feb. 5. Par. 4. W. But the Lord have now altered their former Rule, and found the Defender in an Exhibition ad Deliberandum may the Not in familia Defuncti, liable to Exhibit all Writs in his hands whether Infeffment had followed thereon or Not 30 June 1715 Spark contra Barclay of Ulrie.

A father having as administrator in law to his own child devised a wardship right to the Reverend, which his pupil was entitled to ad Apparent Heir to the wardship left Infeffment. The Reverend was found obliged in an Exhibition ad Deliberandum at the Apparent Heir's Instance to produce the wardship right, Not withstanding the Disposition thereof by the Administrator in law 19 June 1712 Dick and Cubison contra Rossion and others. An Apparent Heir cannot in an Exhibition ad Deliberandum Infeffment for Delivery of the Writs Exhibited. But yet Writs Exhibited in a process ad Deliberandum were upon a bill offered by the Apparent Heir ordained to be Delivered up to him upon presence that he had use for them in order to serve them; and the other person had Interest to keep them. Albeit some of the Lords thought that the Writs could be Delivered to him till he were seen, unless such as he might have use for.