

No 4.

1623. March 25. L. DUNIPACE *against* HIS TENANTS.

IN an action pursued by the Laird of Dunipace *contra* his Tenants, wherein the pursuer's sasine being quarrelled, for not being registered in the Clerk Register's books, within the space of sixty days, after the date thereof, the LORDS repelled that allegiance, because they found no person had interest to propone that nullity, but a third person, who had a lawful right to the lands standing in his person, as the words of that act itself proports, viz. the act of Parliament *in anno* 1617.

*Fol. Dic. v. 2. p. 330. Durie, p. 61.*

\* \* \* Haddington reports this case :

DUNIPACE pursued a spuilzie for the teinds of Dunipace and Larbour, as heritably infest therein. The tenants *alleged*, That the pursuer's sasine was null, for the teinds not being given at the place appointed for taking sasine of the teinds, and where he used the sasine, as lawfully used at the place appointed. The defender offered to improve the registered sasine in that point. It was *answered*, That the defender having no right in his own person, had no interest to quarrel the pursuer's sasine for not registration, and farther produced a later sasine of lands and teinds duly taken and registered. The defender *objected* against the sasine, That it could not instruct, the summons being posterior in date to the summons, notwithstanding whereof, the LORDS *omnibus semel sumptis* repelled the exception, in respect of the reply.

*Haddington, MS. No. 2836.*

\* \* \* A similar decision was pronounced, 13th November 1623, Marshall against Marshall, No 380. p. 12510, *voce* PROOF.

No 5.

1623. July 10. EDMONSTON *against* ———.

THE LORDS sustained an unregistered sasine of a tenement in Leith, though not a royal borough, because of the perpetual custom of giving such sasines by the Bailies of Edinburgh, a royal burgh; unless the competitor would allege it to be the custom of Leith to register sasines.

*Fol. Dic. v. 2. p. 330. Durie.*

\* \* \* This case is No 12. p. 3105, *voce* CONSUETUDE.