

1583. May.

KER *against* KER.

No 376.

THERE was a process of nonentry advised betwixt Ker of Mersington and Ker of the Shaw, in which there was a sasine produced by Ker of the Shaw, for proving of an exception of the selling of the lands being admitted to probation. This instrument of sasine made mention of a precept past by the Chancery, and also there was produced a brief and a retour, whereby it was judged, that this sasine had passed, but the precept itself was not produced, alleged, in the instrument of sasine, to have been passed forth of the Chancery. THE LORDS, therefore, would not admit the instrument of sasine to make any faith for proving of the exception, by reason the precepts' self, nor no record of the same, furth of the Chancery, was produced, albeit the brief and retour were produced.

Fol. Dic. v. 2. p. 244. Colvil, MS. p. 362.

* * * Spottiswood reports this case:

IN a process of nonentry between Ker of Mersington and Ker of Shaw, there was an exception of selling of some lands admitted to Shaw's probation. For proving whereof he produced an instrument of sasine relative, and making mention of a precept direct forth of the Chancery, but the precept itself, nor was any other record of it produced. Moreover, he produced a brief and retour, whereby it was likely that the sasine had passed upon the precept; yet the LORDS found, that the instrument without the precept made no faith for proving the exception.

Spottiswood, (PROBATION.) p. 242.

No 377.

1615. November 30.

GRAY *against* FINLASON.

No 378.

IN an action pursued by John Gray *contra* Margaret Finlason for reduction of her liferent infeftment of five acres of land, as given, *propriis manibus*, without a warrant, the LORDS, in supplement of the sasine, admitted this adminicle, that, by the contract of marriage, the husband was obliged to infeft the wife in liferent of five acres of land and albeit the land in the sasine be not the same, yet it is sufficient to maintain the woman's sasine, specially in respect that she has no other infeftment given to her of any other five acres of land.

Fol. Dic. v. 2. p. 245. Kerse, MS. fol. 77.