

No 384.

1628. March 16. ADAMSON *against* The TENANTS of Strathylaw.

AN infeftment of sasine (being only the assertion of a notary) is not sufficient to verify a thirlage, nor will it furnish a man interest to pursue for abstracted multures, unless the charter containing the thirlage be produced, which will be sustained to be proved *cum processu*.

*Fol. Dic. v. 2. p. 244. Spottiswood, (MILLS and MULTURES.) p. 206.*

1628. November 22. CLAPPERTON *against* HUME (OF HEATLIE.)

No 385.

A sasine *propriis manibus*, bearing to be *intuitu matrimonii*, the marriage having followed, was sustained in a competition with an appriser.  
See No 375.

IN an action of removing at the instance of one Clapperton, the compriser of the land, the relict of the husband from whose heir the land was comprised, compearing for her interest, and being admitted, and defending, by virtue of a sasine of the lands given to her by her husband, which sasine bore to be given to her *intuitu matrimonii*; likeas, thereafter they were married, and conform whereunto she was in possession of the land diverse years preceding the warning immediately; this exception, and the said sasine, was sustained, being clad with possession, to exclude the compriser; albeit he replied, that it was a naked sasine, without any adminicle or warrant, for that word bearing, to be given *intuitu matrimonii*, was only *assertio notarii*, which could not have respect against the compriser, who was singular successor, although it might have faith against the giver or granter, and his heirs; and the possession of two years immediately before the warning ought likewise to have no force, being but lately acquired to her by some collusion or consent, either of the tenant or of the heritor, from whom he hath since comprised, there being many years intervening since her husband's decease, who died fourteen years before the comprising, during which whole space she acquired no possession until two late years before his warning, and which possession could not be qualified acquired by her *via jure*, by any legal deed done by her upon her right to recover possession; notwithstanding whereof, this sasine was sustained in this possessory judgment, albeit having no other warrant but the said late possession, and albeit acquired by her without order or process of law, and long after her husband's decease.

Act. *Belshes*.

Alt. ———.

Clerk, *Gibson*.

*Fol. Dic. v. 2. p. 245. Durie, p. 399.*

\* \* \* Spottiswood reports this case:

MR GEORGE CLAPPERTON being infeft upon a comprising in certain lands of Hardismill, made a warning to the tenants, and desired them to be decerned to remove. Compeared Margaret Heatlie, and produced her sasine of the same