

No 21. 1632. January 20. HALYBURTON against MONTETH.

INHIBITION found null, though executed at the head burgh of the regality where the lands lay, and of the shire where the party dwelt, and was registered in that Sheriff's court-books, in regard it was not registered in the regality books, as is required by the acts 119th, Parl. 1581, and 268th, Parl. 1597.

Fol. Dic. v. 2. p. 333. Duris.

* * This case is No 18. p. 6947, *voce* INHIBITION.

No 22. 1632. July 10. MARGARET BROWN against EXECUTORS of JOHN DALRYMPLE.

MARGARET BROWN pursues the Executors of unquhile John Dalrymple, for registration of her contract of marriage. The Executors *allege*, There can be no registration against them, because the whole free gear contained in the testament was exhausted by lawful sentences, deduced upon lawful probation, long before the intending of the cause, except only the sum of L. 20. It was *alleged*, Registration cannot be stayed for exoneration, so long as any part of the defunct's gear is unexhausted. Which reply was sustained.

Auchinleck, MS. p. 189.

No 23.

An unregistered sasine was sustained in a declarator of thirlage, being nor about the mill, but about multures.

1638. July 21. ROWAN against COLVIL.

ONE ROWAN being infeft by the Abbot of Dumfermline in the miln of *cum astrictis multuris*, and specially with the astricted multures of the lands of _____ pertaining to the defender, who was convened by this heritor of the miln, to hear it found that his said lands are thirled to his said miln; and the defender *alleging*, that his author, viz. the Laird of Dury was infeft by the same abbot in the said lands, (albiet after the infeftment of the miln) which Laird of Dury had disposed the same lands to the defender's father, who thereafter resigned the lands for new infeftment to be given to him and his heirs; upon which resignation he was infeft, with a clause in the *tenendas cum molendinis et multuris*; by reason of which clause he has liberty and freedom from being astricted to the miln libelled, and in respect of this his right and interest to claim liberty, he *alleged*, that the pursuers sasine of the miln libelled, so far as he craves thereby the defender's lands to be astricted, and to pay multure, and to grind at the miln libelled, is null, because the same is not registrated in the secretary's register, conform to act of Parliament; and the pursuer *replying*, That this nullity cannot be respected unless it were proponed