

1668. *January 4.* FORBES *against* _____.

No 27.

THE author's backbond found good against the singular successor in a tack, though neither registered nor intimated to him before his purchase.

Fol. Dic. v. 2. p. 330. Stair.

* * * This case is No 37. p. 10204., *voce* PERSONAL and REAL.

* * * The like, with regard to a backbond of trust, 12th July 1670, Kennedy against Cuninghame, No 39. p. 10205., *IBIDEM.*

1668. *June 30.* MR ROBERT BURNET *against* SWAN.

No 28.

A sasine within burgh under the clerk's hands sustained without necessity to allege that it was registered in the town's books.

MR ROBERT BURNET, tutor of Leyes, pursues for mails and duties of a tenement in Aberdeen. It was *alleged* for Swan the defender, Absolvitor, because he stands infeft in the lands, and by virtue of his infeftment, in possession; and albeit the pursuer's infeftment be prior, it is null, neither being registered in the register of sasines, nor in the town clerk's books of Aberdeen, according to the custom of all burghs, but hath been latent many years, and no vestige of it in the town's books; so that the defender was *in bona fide*, to contract with the common author, and apprise thereafter. It was *answered*, That the act of Parliament excepted sasines within burgh; and the pursuer having the town clerk's subscription was not answerable for his keeping a prothocol or record.

"Which the LORDS found relevant, and sustained the sasine."

1676. *February 24.*—IN a competition betwixt James Swan and Robert Burnet, it being *alleged* that a sasine of a tenement in Aberdeen was null, neither being registrated in the register of the shire, nor in the town books, it was *answered*, That the sasine being under the town clerk's hand was sufficient, because the act of Parliament anent registration of sasines excepteth sasines within burgh, without any provision that they be booked in the town's books.

THE LORDS sustained the sasines. See No 5. p. 13538.

Fol. Dic. v. 2. p. 330. Stair, v. 1. p. 547. v. 2. p. 421.

* * * Dirleton reports this case:

1676. *February 24.*—A SASINE within burgh being questioned, because it was not found in the books, was sustained; in respect of the act of Parliament, excepting such sasines from necessity of registration, it being to be presumed