

1678. *January 2.* Sir ANDREW RAMSAY, Supplicant.

SIR ANDREW RAMSAY of Abbotshall gave in a petition, bearing, That a sasine of his being lost, the notary being alive, he had given a draught of the same sasine, conform to the protocol, which the petitioner having presented to the keeper of the register of sasines, that he might mark this sasine, registered of the same date that the former sasine was marked, and registrated in his books; which he refused, because the former sasine registrated, bears, to be written by a servant of the notary's, who is dead; which is no just ground, seeing the notary himself being alive, has given the second instrument of sasine, all written with his own hand, nor is it material whose hand-writing the first sasine was, seeing the attest *ego vero, &c.* was with the notary's own hand; and seeing the first sasine being an extension by the notary from his protocol registrated *debito tempore*, and the registration attested by the keeper of the register, this sasine registrated in the same manner marked, hath the same effect; and any party for his security, or that he might produce the same in different processes, might at first have taken from the notary several instruments of sasine, and caused mark them by the keeper of the register, so, *ex post facto*, he may do the same while the notary lives.

THE LORDS ordained the keeper of the register to mark this sasine as the former.

*Fol. Dic. v. 2. p. 333. Stair, v. 2. p. 587.*

1678. *June 28.* SIMPSON against BLACKIE.

A BRIEF of service before the Bailies of Musselburgh, was sought to be advocated by Agnes Simpson, because Margaret Blackie was going to infest herself as heir to her mother in a tenement, whereas her mother resigned it to her son, Agnes Simpson's umquhile husband, and he was infest, and they had nothing to prove his sasine by, but an extract out of the notary's protocol, it not being registrated. THE LORDS refused to advocate, but minuted on the back of the bill, for direction to the inquest or Judge, that the said extract was sufficient to stop the service though not registrated, which the act of Parliament in 1617 requires only against third parties, but not against the party granter and his heirs.

*Fol. Dic. v. 2. p. 330. Fountainball, MS.*

No 32.

A registered sasine being lost, the keeper of the register of sasines was ordained to mark a new draught thereof, given by the notary out of his protocol as registered of the date of the former.

No 33.

A sasine not registered good against the granter of the precept and his heirs.