

REGISTRATION.

1556r

allowance; and if this preparative be laid down, it may be of dangerous consequence to purchasers, for there may be a latent expired apprising, and if valid without allowance, where shall he find it, or come to the knowledge of it? But the LORDS would not recede from the current of the decisions, and therefore brought it in *pari passu* with the rest, though it was not allowed to this day, much less within the sixty days after its leading.

*Fol. Dic. v. 2. p. 332. Fountainhall, v. 1. p. 825.*

No 44.

1699. July 4.

MR WILLIAM COCHRAN, Pétitioner.

MR WILLIAM COCHRAN of Kilmarnock, by petition, represents to the Lords, that he being heir to his brother Polkelly, his sasine is amissing, but the notary being on life has given a new extract of it out of his protocol book; but Sir John Fowlis, Keeper of the Register of Sasines, scruples to mark it of the old date, without the Lords' warrant. THE LORDS having appointed one of their number to compare the protocol book, with the extract now craved to be marked, it appeared to be but a minute, wanting the clauses of stile which the notary had now inserted and engrossed; and there being preferable rights on the land, who were concerned this sasine should not be made up, (though they declined formally to appear), the LORDS first considered, whether this could be done summarily *per madum quarelae* on a bill, or if it required a process; and if the last, then *adq*, Whether it behoved to be done by a proving of the tenor, or a summons of extention, calling the notary and others? There was one instance where the like had been granted on a bill to Sir Andrew Ramsay, 2d January 1678, No 32. p. 13553; but the LORDS doubted they could allow it any otherways *hoc ordine* but in the precise terms as it stood in the notary's protocol, and even then *periculo petentis*, and reserving the right of third parties, and that Sir John Fowlis behoved to narrate his warrant; and therefore superseded to give answer unless they would take it on their peril.

*Fol. Dic. v. 2. p. 333. Fountainhall, v. 2. p. 56.*

No 45.

How a sasine amissing is to be supplied.

1700. July 3.

Competition Mr JAMES HAY and the other CREDITORS of Hay of Monkton.

THE LORDS advised the competition betwixt Mr James Hay and the other Creditors of Hay of Monkton. They *objected* against his adjudication, That not being allowed, they were preferable by the 31st act of Parliament 1661. *Answered*, He was within year and day of the first effectual comprising; and, by the 62d act of the same Parliament, all such are brought in *pari passu* without noticing their allowance; and in many cases the Lords had so determined, 17th.

No 46.

Found in conformity to Brown against Porterfield, *supra*.