

as are within year and day of the first effectual apprising; for, at that rate, the apprising first allowed should be preferred, even to those within year and day, contrary to the provision in the 62d act. So that, to take these acts in consistency, the last relates to adjudications within year and day, the first to all others.

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*Replied,* The act bringing in appraisers *pari passu*, does not indeed specify, that the appraisings must be recorded; neither does it specify any other formality: But, certainly, when appraisers within year and day, are brought in *pari passu*, the act can be understood of such only as have all the solemnities and formalities required by law: And in this way, the acts are perfectly consistent. That this was the meaning of the Legislature, will appear, because otherwise the record of the abbreviates would be of no use; for if appraisings need not be recorded, to give them the benefit of the act 62. an apprising led thirty or forty years before the first effectual one, must come in *pari passu* with it: A purchaser then can have no security, by looking to the record of abbreviates; he must turn over the whole records of the Court of Session for forty or fifty years, together with the register of interruptions; for otherwise he can know nothing of many adjudications, which will come in *pari passu* with the first effectual one, though he sees nothing about them in the record of abbreviates. To what purpose then would that record signify?

“ THE LORDS found, That the adjudication, whereof the abbreviate is not duly recorded, in terms of the act 31st Parliament 1661, though led within year and day of the other adjudication, whereof the abbreviate is duly recorded, cannot be brought in *pari passu* with it.”

*Fol. Dic. v. 2. p. 332. Rem. Dec. v. 1. No 88. p. 177.*

1732. *January.*

STIRLING against JAMIESON.

INHIBITION must be published at the market-cross of the regality within which the debtor dwells; and it will not supply this defect, that it be published at the head burgh of the shire. It must also be registered in the books belonging to the same jurisdiction, or else in the general register. See APPENDIX.

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*Fol. Dic. v. 2. p. 333.*

1732. *February.*

LORD REGISTER against DIRECTORS and CLERKS of CHANCERY.

By act 33d Parliament 1685, it is ordained, That all clerks within the kingdom, who keep such registers as are or have been in use to be delivered to the Clerk-Register, to be preserved in his Majesty's general register-house, do give

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in all the register-books, &c. Upon this act the Lord-register obtained a warrant from the Lords of Session against the Directors and Clerks of Chancery, of which they afterwards obtained suspension, it not being made out that the records of chancery were in use to be delivered in to the general register. See REGISTER. *Fol. Dic. v. 2. p. 333.*

No 55.

1738. November 20. EARL of SELKIRK *against* Mr GEORGE BUCHAN.

A complaint, upon act 33d Parliament 1685, being given in by the Clerk-Register against Mr Buchan, clerk to the commission of teinds, for neglecting to give in his records; the LORDS found Mr Buchan intitled to keep his records, in virtue of an express clause contained in his commission, but prejudice to the Clerk-Register to order him to preserve them in proper places of safety, as he should see cause. Two things appeared plain, *first*, That the case did not fall under the statute, in respect the records of the commission had never been in use to be delivered to the Clerk-register; *2do*, That supposing the Clerk-register had right to call in these records, it was in his power to grant commissions during life, such as Mr Buchan's is, though to the prejudice of his successors in office. See APPENDIX. See REGISTER.

*Fol. Dic. v. 2. p. 333.*

1745. February 21. The EARL of BREADALBANE Supplicant.

No 56.  
A defect in  
the record of  
the Great  
Seal supplied.

THE Earl of Breadalbane gave in a petition, shewing, That King Charles II. had granted to his father a patent of the honours of Earl of Breadalbane, &c. which patent bore on the back, to have been written to the Great Seal, and registered 18th August 1681, and sealed the last day of August that year; that the petitioner, wanting to take an extract of his patent, applied to the Officers of Chancery, who informed him, that it was not filled up in the register, but a blank left therefor: And upon this he applied to the Lords of Session for a warrant to the director of the Chancery, and his Deputies, to grant him an extract, and offered to furnish them with the principal patent to enable them to do it.

THE LORDS having considered the petition, with the patent produced, attested by the proper officers to have been written to the Great Seal, and registered the 18th day of August 1681 years, and sealed at Edinburgh the last day of August of the said year, granted warrant to, and ordained the Director of Chancery, and his Deputies, to register the said patent, of the date of the attestation of the former officers, and that in the blank left in the books of Chancery of that date, where the said patent might be recorded; and ordained the said