

No 391.

sioner, and having power for that effect by the Earl of Abercorn his brother ; and the defender *alleging*, That no process should be granted on that sasine so proporting, while the warrant thereof were produced, seeing it was but the assertion of a notary, which ought not to have faith uninstructed, no more than if any stranger, not having right, had given such a precept ; and the pursuer *replying*, That this sasine was sufficient, without further production against this defender, who was a naked tenant, having no right at all ;—the LORDS found no process, while the precept and commission whereto the sasine was relative, were produced.

Clerk, *Gibson*.*Fol. Dic. v. 2. p. 244. Durie, p. 615.*

No 392.

A sasine *propriis manibus* by a husband, bearing to be in implement of a contract of marriage, was sustained as a title for mails and duties, if the contract should be produced *cum processu*.

1632. *January 27.* LA. MONTQUHANIE *against* COMMISSARY OF ST ANDREWS.

The Lady pursues the Commissary for payment of the duties of the lands wherein she was infest, and which were uplifted by him diverse years since her husband's decease, wherein she produced only for her title her sasine, bearing to be given conform to her contract of marriage ; against which the Commissary, who was infest by a public infestment proceeding on a comprising from her umquhile husband, *alleged*, That the same wanted an adminicle, and being only *assertio notarii*, that it proceeded on her contract of marriage, could not be a title to sustain this pursuit against him, except the warrant thereof were produced. THE LORDS took the pursuer's oath, if the contract were in her hands, which she declared she had not ; and in respect thereof, the LORDS found no necessity to produce the contract nor the adminicle of the sasine presently, but sustained the sasine for a title in this pursuit, and ordained the pursuer to prove her reply *cum processu*, that there was such a contract as the sasine proported, which was the warrant of the sasine, which the LORDS admitted to be proved, and that the process ought no in the mean time to delay while that were proved, but ordained the cause to proceed.

Act. *Nicolson & Picairn*.Alt. *Stuart & Learmont*.Clerk, *Scot*.*Fol. Dic. v. 2. p. 245. Durie, p. 615.*

No 393.

A sasine was granted to a wife *propriis manibus* for mere love and favour. A reduction was not sustained unless upon showing, that the wife was otherwise sufficiently provided for.

1639. *March 15.* HAMILTON *against* RELICT OF HAMILTON.

MR JOHN HAMILTON having right to a comprising of lands pertaining to umquhile Mr James Hamilton, deduced for his debt, pursues the relict of the said umquhile Mr James, for reducing of a sasine of some of the said lands comprised, granted to her by her umquhile husband, upon this reason, that the sasine was granted by the husband to his wife *propriis manibus*, only for mere love and favour, there being no other adminicle nor impelling cause for war-