

1670. June 15.

SCOT of Thirlestoun *against* The LAIRD DRUMLANRIG.

Scot of Thirlestoun having adjudged certain lands, charges Drumlanrig, superior, to receive him, who suspends, and alleges he ought to have a year's rent, conform to the late act of Parliament 1669. It was answered, that this and all other acts have effect *ad futura*; but not only this adjudication was led before the act, but Drumlanrig was charged before the act, and having no just reason to disobey the charge when he was charged, he cannot claim the benefit of a subsequent law. It was answered, The tenor of the act was declaratory, and bore a general clause, that adjudications should be in all things as apprisings.

The Lords found, that seeing the act did not expressly relate to by-gones, it could not extend to any adjudication, whereupon a charge was given before the act.

Fol. Dic. v. 2. p. 409. Stair, v. 1. p. 680.

* * * Gosford reports this case :

The Lord Drumlanrig being charged to enter Thirlestoun, his vassal, to the lands of Brakenside, which he had adjudged from the apparent heir of his vassal, did suspend upon this reason, That he behoved to have a year's rent before he should subscribe the charter, conform to the late act of Parliament anent adjudications. It was answered, That the adjudication was led, and the superior charged before the late act of Parliament, which did only respect *futura sed non praterita*. To this it was replied, That the act of Parliament, as it was conceived, was *declaratoria juris*, bearing in the narrative, That there was *par ratio* that the superior should have a year's rent from adjudger's as well as comprisers.

The Lords, notwithstanding, did find the letters orderly proceeded, seeing the statutory part of the act did bear only that adjudgers should be in all things in a like condition with apprisers, which did import that it should only take place *ad futura*.

Gosford MS. p. 113.

1672. December 3.

MR. HENRY HAY *against* His TENANTS and The LAIRD of EARLSTOUN.

Mr. Henry Hay being infeft in the lands of Glen, which is a part of the lands and Barony of Earlstoun, pursues his tenants for mails and duties. Compearance is made for Earlstoun, who alleged, That the pursuer hath no right, being only infeft upon Mr. John Hay his brother's disposition, whereas, by his production it appears, that Mr. John was never infeft, but only served heir to his father Mr. William, who apprised the lands, and was never infeft. It was answered, That the pursuer, though he had only the right of apprising, and neither he nor his authors presently

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No. 52.

The act 1669 allowing superiors an year's rent for receiving adjudgers, which they had before for receiving apprisers, found to have no retrospect.

No. 53.

An appriser found not to be bound to pay an year's duty till he insisted for infeftment.