

chants mentioned in the documents, and so were concealed enemies' goods; but if the strangers could produce a document for the whole potashes which they alleged was abstracted by the privateers and company, and whereupon the Lords ordained them to be examined, the Lords, in that case, granted joint commission for proving to whom the property of the ship and goods belonged; but the Lords found, That the skipper and two of the company being Dutch, were not, *per se*, reasons of adjudication, but only of seizure and trial; and that they were adminicles that the loading belonged to [the] Dutch.

*Vol. II, Page 220.*

1673. July 26.

AITON *against* SPENCE.

JAMES Spence pursues an adjudication of certain lands belonging to Kinkel, upon the late Act of Parliament. Compearance is made for Aiton of Kinadie, who alleged, That he hath apprised Kinkel's whole lands; and that, by the Act of Parliament, adjudication hath no place where apprising hath preceded. It was answered, That the Act of Parliament excludes adjudications only where apprisings were led before the date of the Act; but this apprising is led after. It was replied, That the compriser had completed his apprising within forty days after publication of the Act; which, as to legal effects, is the same with the date of the Act; because, by a clear Act of Parliament, it is provided, "That Acts of Parliament shall only have effect within forty days after the publication thereof;" and that most necessarily, because the lieges are *in tuto* to proceed according to laws standing, until the notice of the new law may come to their knowledge; which the statute hath determined to be presumed to come to the knowledge of the lieges within forty days after publication. It was duplied, That the Act of Parliament was only to be understood of penal laws. The Lords found, That the apprising being deduced within forty days after publication of the Act anent adjudications, that the apprising was valid, and did exclude this adjudication.

*Vol. II, Page 222.*

1673. July 29. The DUKE of HAMILTOUN *against* HAMILTOUN of MONKLAND.

THE Duke and Duchess of Hamiltoun pursue a declarator against Hamiltoun of Monkland, That a bond of £884 sterling, subscribed by Duke James, commissioner, *in anno* 1646, and left blank in the creditor's name, to have been delivered to Sir James Stuart, who was to advance the money; that the said Sir James caused his correspondent, one Cutler at London, about the same time advance the like sum. Cutler took bond from Duke James, being then in England, for £1060 sterling, which was advanced upon Sir James Stuart's order; and this bond of £884 was either comprehended in it, or there was never any distinct sum advanced therefor. And there being much debated for founding a presumptive probation to take away this bond, and in the contrary;—the