

No 142. in setting pupil's lands were warrantable, the law would secure him ; and therefore left him to do as he will be answerable.

Reporter, *Redford*.

Fol. Dic. v. 1. p. 499. Dirleton, No 277. p. 135.

No 143. 1678. July 20.

MORRIS *against* ORROCK.

The Lords found, that *ex officio* they might supply defects in apprisings, to make them subsist as securities.

MORRIS pursues a reduction of several apprisings led against him by Orrock of Balram, wherein the penalties of the sums were exorbitant, yet the Lords did not abate the same ; but it being *alleged* against one of the comprisings, that it was null, proceeding upon a registration on a clause in these terms, ' To be registrate in the books of Session, or any other competent judicature of the kingdom ;' it was registrate where the creditor lived, but the debtor was not in that jurisdiction, and so there was no competent judge. It was *answered, imo*, That, by competent judge, was understood any judge having ordinary jurisdiction ; *2do*, In the apprising there were diverse other sums for which the apprising ought to stand, and to be sustained, though not in this sum.

THE LORDS considering, that *ex officio* they might supply defects in apprisings, to make them subsist as securities for the just interest, without the extraordinary advantage of expiring of the legal, or unequal penalties, did declare, that if the defender would restrict his whole apprising to the ordinary penalties (for the Lords had deducted the termly failzies, and would not allow them) they would then sustain this apprising for the whole sums ; but he having refused, the Lords reduced the apprising *in toto*. See LEGAL DILIGENCE.

Stair, v. 2. p. 637.

* * * Fountainhall reports this case :

1678. July 19.

A COMPRISING found null because led on a bond registered in Kirkcaldy town books, within whose jurisdiction the debtor dwelt not ; and the appriser here refused to restrict to his just sums ; and as the Lords maintain comprisings as a legal security, so they embrace every opportunity to cut them off where they are rigid.

Fountainhall, MS.

1687. July 22.

THE BRETHERN and SISTERS of PATRICK SCOT of Orchardfield *against* BARBARA FOULER, and RICHARD PRESTON TAYLOR, her Husband.

No 144.
In a question of fraud, the Lords having

THE Brethren and Sisters of Patrick Scot of Orchardfield insist against Barbara Fouler, and Richard Preston Taylor, her husband, for reduction of the