1682. *November* 15. KING *against* CHALMERS.

No 401.
A sasine *propriis manibus* not signed by the granter nor adminiculated, no sufficient title.

IN an action of reduction, pursued by King against Chalmers, the defender did *allege*, That the pursuer's title being a gift of *ultimus hæres* of Janet Chalmers, whose right was as heir to James and Thomas Chalmers, who were infeft only by a sasine *propriis manibus*, given by the grandfather to them, of a certain tenement; and which sasine not being subscribed by the grandfather, neither having any warrant, nor being adminiculated by any subscribed writ, was not a sufficient title to quarrel the defender's right, which did flow from the heir of the grandfather of the said Thomas and James Chalmers; by virtue of which, the defenders and their authors had been 40 years in possession. THE LORDS found that James and Thomas Chalmers' sasine, not being subscribed by the granter, nor adminiculated by any subscribed writ under his hand, to be only the assertion of a notary, and so not a sufficient title to quarrel the defender's right; and therefore assoilzied the defenders.

Fol. Dic. v. 2. *p.* 244. *P. Falconer, No.* 28. *p.* 14.

1714. *July* 1. WALKER *against* ADAMSON'S CREDITORS.

No 402.
Found in conformity with Houston against Maxwell, No 390. p. 12515 that a sasine alone in burgage was sufficient title to carry on an action.

JOHN WALKER, as having right to a tenement of land at the head of the Skinners' Close in Edinburgh, by disposition and infeftment from Janet Handyside, who was infeft by hasp and staple as heir to John Handyside merchant there, her father, heritor of the said tenement, having raised reduction and improbation against the Representatives and Creditors of James Adamson, of an adjudication and infeftment in the said tenement obtained by him, upon which thirty-eight years' possession had followed;

Alleged for the defenders, That the pursuer's author's infeftment being by hasp and staple, which is of the nature of an infeftment upon a precept of *clare constat*, that is good only against the superior granter, and tenants or possessors having no right of property, cannot be sustained for overturning rights habilely established in the person of third parties; because, though regularly there ought to be a cognition previous to the infeftment by hasp and staple, that the party is nearest heir, as the stile thereof imports, yet, by the universal custom of all the burghs in Scotland, no such cognition is used either by witnesses or an inquest, but such infeftments pass of course.

Replied for the pursuer, That infeftments by hasp and staple are rather to be assimilated to services than to precepts of *clare*, seeing the Bailie as judge is supposed to cognosce and inquire into the parties' propinquity to their predecessors by the honest neighbours of the burgh (who are in place of an inquest), and so it is called in our law *cognitio more burgi*. Again, a precept of *clare con-*