

No. 13.

1628. March 25.

ANDERSON *against* LAW.

ANDERSON being cautioner for Law, in a sum to be paid to N. the bond being registered at N's instance, Anderson pursued Law to relieve him thereof. Law *alleged*, He was not distressed, he neither having paid the sum, nor yet having been charged with letters of horning. Yet the LORDS sustained the pursuit, in respect that the bond was registered against him.

Spottiswood, (REGISTRATION.) p. 272.

No. 14.

1628. December 4.

LOGAN *against* HUNTER.

A dispoer, whose sasine was registered, was preferred to an appriser first infeft, whose sasine was not registered within 60 days.

IN a removing, a creditor having a disposition by contract, containing procuratory of resignation of some land made by his debtor, and the same land being comprised by another creditor to the said debtor, before any resignation was made, according to the said disposition, and before any sasine was taken thereon, and the compriser having also obtained a charter from the superior of the lands containing precept of sasine, and accordingly he being seised before the said resignation was made by the said other creditor now pursuer; and the said sasine of the compriser not being registered conform to the act of Parliament in the Clerk of Register's books *debito tempore*, whereby he was forced to take another new sasine; before the taking whereof, the creditor who had the first disposition, caused make resignation conform thereto, and thereupon was infeft before the compriser was of new valuably seised, albeit after the charter, and precept of sasine, given in favour of the compriser, and after the first sasine was taken thereupon, unregistered, as said is. This first disposition before the comprising and sasine, conform to the disposition taken after the comprising, and charter, and sasine, unregistered, but before the other valid sasine, was preferred, and the said posterior sasine given to the compriser was found, could not be drawn back to the comprising, seeing the sasine given conform to the procuratory was a mid impediment thereto, albeit that the superior was charged by the compriser to receive him before the using of the procuratory; which charge he alleged ought to be sustained, as if he had been then seised; which was repelled, seeing, conform to the charge, he obtained a precept in due time, and it was his own fault who expeded not his sasine thereon lawfully in due time.

Act. *Stuart & Primrose.*Alt. *Nicolson & M^cGill.*Clerk, *Scot.*

Fol. Dic. v. 2. p. 331. Durie, p. 404.