

17. Registration in the proper Commissary Court Books concerning Matters consistorial is sustained as competent 16 January 1706 Young and Alan Supplicants. But Writs touching Matters not consistorial cannot be registered in the Commissary Books, tho' the Grantor live within the Bounds of the Commissariat 29 June 1705 Malthe Supplicant contra Commissary Clerk of Edinburgh. And a Bond above 40 Pounds was found incompetently registrate in a Commissary Book 18 Feb. 1703 Weir of Blackwood contra Cochran of Kilmarnock and other Creditors of Cafes. Because Commissarys by the King's Instructions to them (Art. 1.) cannot judge in Matters civil above 40 Pounds, and a Decree of Registration where there is no Appearance or Citation, can be of no great Force or Efficacy than other Decrees upon Citation. When a Writ is entered in the Register of an incompetent Court, the Lords of Session will, upon a Petition offered to them, issue forth a Warrant to get up the principal Writ, upon restoring the Extract taken from the Clerk of that Court. Rights may be recorded not only before or after the Grantors Death. Act 39. Par. 1. 1701 or before or after the Death of the Receiver or Creditor, at the Instance of his Executor producing a Service or Confirmation, or his Assigny producing a special Assignation he not intimated Act 18. Sep. 4. Par. 11. 1701.

Some Writs must be registered ^{for publication} within a certain Time, otherwise they are null. Thus Letters of Horning and of Relaxation for a civil Cause with the Executions thereof, must within 10 Days after Denunciation or Publication of the Relaxation, be entered in the Register Books of the Shire, Stewartry or Bailiwick where the Party dwells, or in the general Register at Edinburgh Act 75. Par. 6. Junct. Act 269 Par. 15. Act 19. Par. 16. J. 6. And Horning on a criminal Cause must be registrate in the Books of Adjournal. Act 140. Par. 8. J. 6. otherwise the Executions thereof are null. But Horning against Witnesses need no Registration Act 142 Par. 8. J. 6. McKenzie Observ. on d. Act 75. Letters of Inhibition and Interdiction and the Executions thereof must within 40 Days after Publication at the head Burgh of the Jurisdiction where the inhibited or interdicted Party dwells be recorded either in the particular Record of that Burgh and also where the major Part of his Lands lie (if those and his dwelling place be within different Jurisdictions) or in the general Register at Edinburgh Act 110. Par. 7. Junct. Act 269. Par. 15. Act 213. Par. 16. J. 6. otherwise the Inhibition or Interdiction is null. And either the Day when the Inhibition or Interdiction was published or the Day when it was recorded is included in the Number of the 40 Days allowed for Registration, but one of these must be free McKenzie Observ. on d. Act 119. Executors not in the actual Possession of his Estate, must be duly returned, and upon the last Day to which the Citations are given, recorded in a particular Register kept at Edinburgh by the Collector of the Dues of the Clerks of Session other

wife they make no Fault in Judgment Act of Sess. 25 Novemb. 1711. 8. 1. Other Rights are not null for not being recorded within the Time, but not so effectual as if they had been registrate in due Time. Such are Seigns, Resignations not incorporate in the Instrument of Resignation, and Instruments of Resignation or Grants of Redemption or Assignation, Discharges of the same, and Instruments of Resignation in the Superior. None are permanent, must be recorded within 60 Days of the Date, and so do Writs of Mandamus or Resignation or Grants of Redemption or Assignation, Discharges within 60 Days after Dates of the Decrees ordaining them, to be given up, either in the particular Register of the Shire, Stewartry or Bailiwick, or in the general Register at Edinburgh. All which Registers are marked by the Clerk Register or those deputed by him, not that effect with a Note of the Number of Leaves they contain, we kept by the Deputed Clerks, and to be patent and that Extracts thereof may be given such as want them. And Writs given in to be registrate must be put in within 40 Hours there after, marked with the Day Year and Leaf of the Registration. Act 11. Par. 2. J. 6. Junct. Act 3. Par. 2. Sep. 1. Ch. 2. Writs of the Nature a record concerning Tenements or Lands within royal Burghs or their Liberties or Freedoms holden in Burghs, are to be recorded within the Time aforesaid in the respective Burgh Clerks Books depending only on the Magistrates and not on the Clerk Register Act 11. Par. 3. Junct. Act 3. Par. 2. Sep. 1. Ch. 2. McKenzie Observ. on d. Act 3. The 60 Days are so to be reckoned, as that either the Day upon which the Writs are Dated or on which they are registrate be free McKenzie Observ. on Act 16. Par. 22. J. 6. The Want of due Registration of such Writs in Manner aforesaid, unravels them as to a Third Party or singular Successor, but not as to the Grantor or his Heirs. And Extracts out of the said Registers make Truth in all Cases except where the Writs are offered to be improven as false d. Act 16. Par. 22. J. 6. Act 11. Par. 3. Ch. 2. Allowances of Decrees of Apprising Act 31. Par. 1. Sep. 1. Ch. 2. or Adjudication Act 19. Par. 2. Sep. 3. Ch. 2. formerly believed to be recorded in the Bull Chamber within 60 Days after Date of the Decrees, otherwise a posterior Apprising or Adjudication first allowed and recorded was preferred. But now Abbreviates of Decrees of Adjudication signed by the Judge simul et semel with the Decree, are to be recorded in Manner aforesaid. And it must be marked when and by whom the Abbreviate was given in, which the Judge Signs. The Recorder then marks whether the Decree he hath recorded the Abbreviate, be extracted or not, and may be deprived of his Office if he record Abbreviates unduly or later in any after