

expressed, because it is effectual according to the Tenor thereof. In Charters granted by the King as supreme Superior pure coronae. Warr. Indice is seldom inserted; and tho' very simply conceived, hath ne Effect to produce any Action in case the Right prove ineffectual: Because these royal grants are always gratuitous and his Majesty dispenca plenissima jure proinde potest. But in Charters of Lands which are no Part of the crown - Revenue or annexed Property, his Majesty utilis in re privata, and his Warr. Indice may affect his private Patrimony.

Sect. 6.

Precept of Seisin.

The Precept of Seisin is a Command by the Superior to the Bailie to give Seisin to the Vassal or to his Attorney. It calls Seisin and Seisin for that it is performed by and to Persons standing in Seisin because it is res data et habitata. *Co. Litt. Lib. 2. c. 1. s. 4.* Precepts of Seisin granted by inferior Superiors were originally ingrossed in their Charters. But till the year 1672. they granted by the Sovereign could only pass by a Writ under the Quarter Seal or the Great Seal: Which being found expensive and troublesome some Precepts of Seisin granted by his Majesty were taken down & ingrossed in the Charters. *Stat. 1. Car. 2. Sect. 3. Ch. 2.*

Formerly Precepts of Seisin did as other Mandates fall either by the Disposer or Purchaser's happening to die before Seisin taken. Whereby Persons were put to much unnecessary Expence in procuring those Precepts to be renewed. But now that pre-conventioned is either one Precept of Seisin, not being ambulatory or revocable, but irrevocable Mandates to the Use of the Mandatary, we decline to continue in full force as sufficient Warrants not only to those whom they are granted; but also in Favour of their Heirs, Assigns and Successors having Right thereto by a general Service, or by Possession and Assignation, as well after as before the Death of the Grantor or Parties to whom granted, or both: Provided that Instruments of Seisin taken after the Death of either Party, express the Title of those to whom Seisin is granted, otherwise they are null. *Stat. 35. Sep. 4. Car. W. & M.* But Precepts of *clare constat* do yet fall ~~after~~ ^{within} the Death of Disposer or Purchaser. *Stat. 35.* How a Person inferior in the Superiority may afterwards get himself infeft in the Property

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Sect. 7.

The Security of Purchasers Charters granted by inferior Superiors, as well as Dispositions were allowed to bear a Clause of Registration, in Order to be recorded only in the Books of Session. *Stat. 35. Sep. 4. Car. W. & M.* and now all charters granted by any other way than by a Clause of Registration be recorded for Registration in the Books of Session. *Stat. 1. Car. 2. Sect. 3. Ch. 2.* About a hundred years ago a Statute was made *Stat. 1. Car. 2. Sect. 3. Ch. 2.* in a formal Charter in the best Style, which every Subject in this Kingdom accept, in Notaries may for writing, recording, and sealing the paper and certifying. Yet any Disposition performed in private Writing, or Herdase is valid and good, and contains no Variation or defect in its Nature, and is so in all Grants. *Stat. 1. Car. 2. Sect. 3. Ch. 2.* according to the substance of the Disposition, and in many Cases, are good without the Clause of Registration, or without the Disposition, if they be recorded. *Stat. 1. Car. 2. Sect. 3. Ch. 2.* It is to be said that if they are not recorded, they are not good, and are not to be taken as valid in their Nature, but are not to be taken as valid upon them as personal Obligations, and get Execution or Relief by Force against the Vassal for recovering the annual modum, and the like, and for him to depose and so he shall have a good Title, and shall not be taken, or did at any time, as if they put in a Writ *Stat. 1. Car. 2. Sect. 3. Ch. 2.* A Precept of *clare constat* is also sustained in Place of a Charter from the State, seeing it contains a Draft or sketch such a Charter as Vassals, which impedes the Superior's Right in Writs. *Stat. 1. Car. 2. Sect. 3. Ch. 2.* Effect to hinder singular Successors. Impugn the Rights of that Vassal's Predecessors which are not to be supported by the Superior's Acts or Obedience, but by their own Sufficiency. For the same Reason, that Precepts of Seisin not relative to particular Charters or Seisins, but other simple, or bearing secundum chartam conscientiam, are sufficient in Charters were never granted. Yet the Statutes will in that Case be considered as gratuitous, that infers no Warr. Indice, and passeta may be Seisin of the Vassal's Body, and not to Ascendants or Collaterals; unless the Precept express or insinuate a Cause onerous or valuable Consideration. *Stat. 1. Car. 2. Sect. 3. Ch. 2.* But