

or within Burgh be not only recorded respectively in Manner afore-
said, they are null in prejudice of Singular Successors acquiring posterior
Rights who are not obliged to notice such Seisins. But effectual only
against the grantor and his Heirs d. Act 16. junct d Act 22 or why P.
son obliged to acknowledge the Infeftment as a Son to whom the Fa-
ther disposed with a reserved Faculty to grant Infeftment to others
22 Reg. 1667 C. Larnwath contra the Earl.

The Superior, if a Subject as well as the Vassal, in
the Land itself without Mention of the Superiority, which is only a
Consequence of his granting the Fee. Stair Lib. 5. Tit. 4. 5. 6. and his
Seisin cannot for want of Registration, be quarried by the Vassal
who has no Right to the Superiority 12 June 1679. Fild contra L.
Dorrie and L. Palmerina. But the King wants not to be unjust.
For his Majesty (who is the known Fountain of all Rights) is in
Fest jure Corona in all Lands and his Land him is equivalent to
a Feudal; his Right being founded in pure Commons, and not judicial
as in Stair Lib. 5. 2. And so it is according to the Law of England
where the King by his Prerogative, hath primer Seisin of all Lands
and Tenements within his Kingdom. Dives. Dec. 12.

Sect. 2.

The Effect of and Credit given to a Seisin.

The Distinction of the Doctors of the Law between jus in re and jus
ad rem hath no Foundation in the civil Law, and seemeth to flow from
the Canon Law, that distinguishes inter jus in prebenda & jus ad pre-
bendam, seu jus in beneficio & jus in beneficii Element de sequente
Sicne possessionum c. d. de conce. prebenda in 6. But Sir George All-
lenzie (Creat. of Actions Chap. 4.) says that such a Distinction
takes Place in our Law: For he holds jus in re to be that Right which
is acquired in Seisin or is complete without Seisin, as a Service for
he will have jus ad rem to be established in Movables by Arrestment
which is necus realis, and in Heretage by a Disposition which he says
was found to affect rem ipsam. In the case of the C. Weems
contra Mckenzie of Applecross. Or by Inhibition which he says was
found necus realis July 1687 in the case betwixt Bannatyne
and the Creditors of Provost Graham.

Seisins are in Competitions preferred according to the Date of
the Registration: Act 13. Sept. 4. Car. W & M. Two Seisins registered
on the same Day were brought in pari passu notwithstanding of a
Declaration produced under the Clerk's Hand, that the one was re-
corded two Hours before the other: Which was found not probative, in
principle

principal Minute of the time of presenting in the Terms of the
Act of Parliament being produced to instruct the Priority 28 Feb.
1708 Lockhart of Cleghorn contra Warrap. A Creditor in feist was
preferred to another whose Infeftment was posterior, albeit the former
was correns debendi with the common Sutter in a personal Bond
granted to the latter for the Debt contained in his Infeftment
28 Feb. 1711 Baird contra Merkimar and Towchar.

Seisin being only the Affection of a Volary, proves not unless it be
Warrant thereof mediate & immediate, as the Disposition or Receipt
whereupon it proved be produced (Stair Lib. 2. Tit. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.)
in a Charter Disposition or Contract of Alienation, these must be pro-
duced specified as related, not only passively to before in Reduction,
Declarator or other Process, but as active titles to produce in
cessus: Because the Charter &c. when it relates to a Part of the In-
vestiture, making up the real Right, and so must be produced, that
the other Party may plead upon any Cause therein in Favour of
itself, his Decedent or Ancestor Stair Lib. 2. Tit. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.)
having secundum iuriam combatam by the Clerk of Burgh, and
this Seisin accepted to come, was found null without a Warrant the
was produced a Declaration of the Infeftment and Disposition whereupon
it proceeded when some had advanced a Warrant, and tho' it was the
Custom of the Burgh to pass judgments upon Dispositions without
any Warrant or Testimony. It was not regarded that the Declaration men-
tioned a Disposition, because that seems intended only to raise the Part-
iculars expressely were, but style, and the Seisin did not relate to
Disposition 24 June 1672. Mitchell contra Lewis. But there is no Necessi-
tily to produce a Disposition (Contract of Alienation or Bond) to
annulate a Charter relating thereto Stair Lib. 2. Tit. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.)
Warrant of Seisins of the Superiors. Precept in respect or reference
to therein: yet none are obliged after 40 Years Possession to produce
Precepts of Seisin as not in Reduction, where the Instrument of
Seisin mentioning the Precept by Virtue whereof Seisin was given,
is extant Act 214. Par 14. p. 6. Tho' the Possession hath neither been
peaceable nor continued without Interruption Stair Lib. 2.

If a Seisin be ancient, and clothed with long Possession, the Lords
will sustain a Disposition Contract or Bond as a sufficient Dominium of
Seisin, tho' it do not relate thereto: The Party always making Faith,
that he did not keep or conceal any other Part of the Investiture,
which takes off the Presumption of fraudulent Concealing or putting
away the immediate Warrant of the Seisin, which might afford Defen-
ces