

or Monday. It is a power inherent in all Judges, to continue proceedings before them to new diets, they having kept the first diet: but a messenger cannot prorogue the diet of his court of apprising, with a necessary cause 12 July 1671. Heirs of Lunde contra E. Southwick and others. If the creditor at whose instance apprising is to be laid cannot be present, he grants a procuratory to one to appear for him.

Upon the day appointed, the messenger, as Judge, creates and swears the members of court, viz. the officer, Dempster, and the foreman. The court is fenced by the officer betwixt 11 and 12 hours in the forenoon. The Debtor is three times called, and not appearing, the matter is referred to an Inquest of 15 hours. Whereof which have been such inquest hath of a long time consisted, the Statute 37 Par. 5. J. 3 requires only 13. The Inquest having chosen one member to be their Chancellor, if the plurality of them find the Debtor claim instructed, do, when the hour of 12 strikes after calling the Debtor with Certification that the Inquest will apprise, if he not appearing, by their Verdict apprise the lands &c. And order him to be seised or assignys to be seised, for payment to them of Accumulation of principal Annual rent and Expenses and of a sum corresponding thereto for the messengers pains. Called the Sheriff-fee viz. the 20 penny of the sum appraised for. Whereupon the pursuer or his procurator takes instruments. The lands are three times offered at the door to the Debtor for the money, and upon his not appearing to pay, the messenger takes his authority to the verdict of the Inquest, which is called Decree of Apprising, Craig Gene lib. 2 tit. 2 § 8. I have been this particular in setting down the order of leading appraisings (the adjudications be now come in place thereof) because a great part of the land Rights in Scotland are established by appraisings, which are the daily subject of plea.

The Lords of Session must allow this Decree of apprising by signing an abbreviate thereof, which ordains homing to pay for charging the Superior to Enter and seise the Appriser in the allowance must be recorded in the Bill Chamber within 60 days after the date of the Decree of apprising, otherwise another apprising, tho' of a posterior date allowed and recorded before it, will be preferred ad 31 Par. 1 sess. 1 Ch. 2. Unless the settlement follow upon it, before the first allowed apprising become effectual by seifment or charging the Superior. In which case the former is preferable. Stair lib. 3 tit. 2 § 1.

M. Kenric obsen. on act 31 Par. 1 sess. 1 Ch. 2. Because Registration of the Inquisition sufficiently fortifies singular success and supplies the not Registration of the Allowance. So that an apprising is not void for want of the Allowance and Registration within the 60 days: and the using that solemnity after Elapsing of these days, will be accounted to prefer the apprising so timely allowed and recorded, to appraisings allowed and recorded thereafter. Thus, the Lords in June 1665 upon a supplication ordained an apprising to be allowed and recorded to that effect after that both the Debtor against whom it was to be made was dead, and the 60 days expired. The Lord Inquest would not allow an apprising without to be still, nor granted by a posterior apprising first allowed, but brought in with pari passu as if the Debtor were deceased only the presence of the first apprising, and set both upon a level by the Statute 17 Novemb. contra Cunningham and Decree of Session 1665. The Statute of 1665, which is the act of Parliament 1665, which these appraisings have been made within year and day of one another; altho' the circumstances be not mentioned in the case. I doubt not apprising may be allowed (8 June 1665) or refused (12 Novemb. 1665) or set aside (20 Novemb. 1665) L. Lagg vs. his heirs &c. even after the Statute because without the concurrence of his heirs. An appriser dying before his apprising is allowed, his heirs (11 Dec. 1665) Thoreson of Seckmarie supp. heard) or a deputy (22 March 1626) Thoreson contra Elphinston may upon a petition to the Superior get it allowed in his own name, and procure letters to charge the Superior to receive him Stair lib. 3 tit. 2 § 18.

An Apprising is Redeemable by the Debtor, or a posterior appriser, or by the Superior within 10 years ad 62 Par. 1 sess. 1 Ch. 2 from the date of the Decree of Apprising 11 Novemb. 1630 L. Limpel Law contra Aiken head. And Expired Appraisings required by the Debtor's apparent heirs or Consigners to their behoof, are Redeemable by a subsequent appriser, within 10 years from the time of the seifment, or publication of the Right by process ibid.

An apprising, while the legal is current, is only a security, which doth not hinder the Appriser to use any other Diligence for his payment, without Renouncing the apprising. 15 March 1628 Lord B. Lantyre contra Parishioners of Bothwell. 23 July 1633 Luffson contra Scot of Whithead. See such an appriser (tho' his apprising be expired) may use Diligence by