

1546. The TENANTS of COLBERSPETH *against* LORD HOME, &c.

IN an action of spulyie pursued by the tenants of Colberspeth *against* the Lord Home and the master his son; Excepted, That the pursuers had renounced willingly all actions of spulyie they could pretend against the defenders, and produced an instrument of renunciation made by them. Replied, That they had done it *per metum illatum*. Duplied, *Quod metus, via exceptionis, non esset admittendus, sed quod deberent ex eo agere, per viam actionis, quod metus causa, ad retractandam renunciationem prædictam*. The Lords found, *Quod de metu opponi posset per viam actionis, exceptionis, vel replicæ, ad libitum*. Juxta Jura ff. quod Met. Cau. and de Dol. Mal. et Met. Except.

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1546. The QUEEN'S ADVOCATE *against* DAVID WEEMS.

THE Queen's Advocate summoned David Weems to produce an instrument of sasine of his, and to hear and see it civilly improven. Alleged, That he was minor, *et agebatur hic super hæreditate sua et annullatione suæ sasinae hæreditariæ; super qua non tenebatur placitare*. The Lords repelled the allegiance; *nam iniquum censuerunt, ut minor, ex suo suorumve dolo aut fraude, (in confectione falsi instrumenti,) reportaret commodum. Tum etiam periculum erat in mora, si improbatio differretur in perfectam ætatem illius; nam interea possent testes instrumentarii perire, et sic instrumentum nunquam posset improbari*.

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1546. The LAIRD of HALTON *against* ANDREW MURRAY.

THE Laird of Halton pursued Andrew Murray before the Lords, for troubling him in his possession of certain lands proper to him, as he alleged. During the dependence of this cause, Andrew Murray raised letters of cognition before the sheriff, upon his possession of the same lands, being common to him as parts and pertinents of his lands of Blackbarony. Halton sought the letters of cognition to be suspended, because they were prejudicial to his summons first raised and depending; *quia sententia lata, in causa cognitionis, pareret exceptionem coram DD. in causa molestationis*. The Lords thought the cognition raised in prejudice and defraud of the action of molestation intended; and therefore suspended it till the other was discussed.

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## 1547. March 10.

N. SOUGHT to be served heir to his father in certain lands; and the inquest