

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

served him negatively; because he neither produced his father's charter nor sasine. This service was craved by him to be reduced, because he produced before the Lords a decret of theirs; whereby they had decerned the superior of the same lands to infest the pursuer's grandsire in them, to be holden blench. *Item*, Another decret wherein the same superior did judicially confess that he had infest the pursuer's father in the same lands, conform to the tenor of the first decret, with a precept of sasine of the said superior's for giving of sasine to the pursuer's father. More, a decret of transumpt of a prothecal before the commissary of Dunkeld, wherein was contained a sasine given by virtue of the former precept of the superior's. *Ex his judiciis licet nullum instrumentum publicum extaret*. The Lords reduced the service and retour.

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1550. *December 16.* The TUTOR of PITCUR *against* LORD GRAY.

IN an action, pursued by the Tutor of Pitcur *against* the Lord Gray, for burning of Dundee, it was observed, that, *in prædiis urbanis*, three quarters being bounded in the libel, it was sufficient, though the fourth quarter was not bounded nor expressed.

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1552. *December 6.*

It is enough to prove one heir to his father, &c. by production of a decret given either with him or against him as heir to his father, &c. though there be neither retour nor sasine shown.

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1555. *January 28.* The LAIRD of CRAGYHALL *against* ———.

THE Laird of Cragyhall having analyied certain lands to B. under reversion; as he was pursuing a declarator of redemption, and had consigned the money, it happened, at the burning of Edinburgh, that this reversion was lost;—then Cragyhall summoned B. to hear and see the tenor of the reversion proven by witnesses; which he having sufficiently proven, and obtained decret thereupon, and letters in four forms, he charged B. to make him a new reversion conform to the old; which he refusing to do, disobeyed the charge, and passed to the horn. Then Cragyhall called him before the Lords, either to make him a new reversion, or else to hear and see it decerned by the Lords, that the first decret should have the strength and force of a reversion, and be as sufficient to redeem the said lands, as if it were a sufficient reversion made by the defender. Which the Lords sustained.

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