

PART AND PERTINENT.

1591. November. COMMENDATOR of New-Abbey against TENANTS.

No 18.

MR WILLIAM LESLIE, Commendator of the Abbey of New-Abbey, warned certain tenants that occupied certain yards and crofts of land within the precincts of the Abbey, to flit and remove. It was *excepted*, That they were tenants to one John Maxwell of Kirkconnell, and he had tack and assedation of the hail benefice, except the place of the kirk and the garden; and their master not being warned, they ought not to flit. *Answered*, That in so far as the defenders alleged that the place was excepted, all things that were within the precincts of the Abbey behaved to be excepted, and appertain to the place; which was found by the Lords, and so they repelled the exception in respect of the answer.

Fol. Dic. v. 2. p. 26. Colwil, MS. p. 472.

1612. June 16.

HOME against HOME.

A PARTY being infest in lands may charge the possessor to deliver to him the manor-place, being built upon the said lands, albeit he be not infest *per expressum*, if the house be built upon the land, and have that same denomination, and have been peaceably possessed by the pursuers's predecessors.— A fortalice requires express infestment, but a manor-place requires no express infestment; and yet the heritor may charge summarily for delivery of the manor-place after the liferenter's decease, without any warning.

INO 2.
A fortalice requires express infestment; but a manor-place requires no express infestment.

Fol. Dic. v. 2. p. 26. Haddington, MS. No 2455.