

*ander Arbuthnet's* information contra *Colonel Hary Barclay*; see *Lutfuit* and *Corser's* information. *Vide supra*, June 26, 1678, [*Birnies* against *Morray*,] No. 580. See *Schotani Examen Juridicum*, ad *Tit. de Donationibus inter virum et uxorem*. See the same decided in *Dury*, December 21, 1638, *Craigmillar* contra *Chalmers*. See *Craig*, pag. 97 and 341. *Advocates' MS. No. 607, folio 293.*

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1677. July 21. SIR ROBERT PRESTON'S RELICT *against* HIS ELDEST SON.

IN a cause of Bothwell, relict of Sir Robert Preston, against Sir Robert's eldest son: Forret inclined that though a bond of provision by a father to his children, was not a delivered evident in the father's lifetime; yet he being tutor and administrator of law to his own bairns, might keep their writs, and that could not hinder execution on them after his decease, though they bore no clause dispensing with the not delivery, and that these bairns were provided to 10,000 merks already, by their mother's contract of marriage, and this was an additional provision of 10,000 merks more.

See *Dury*, 11th November 1624, *Wallace of Ellersly*.

*Advocates' MS. No. 611, folio 294*

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1677. July 21. BRUCE of Bordy *against* KEIRIE, and CALLANDER.

BRUCE of Bordy pursues one Keirie, chamberlain to the Earl of Mar, and one Callander, for a spulyie and ejection: ALLEGING, that they entered to the land *privata auctoritate*, and not *via juris*; *et non est singulis concedendum quod per prætorem seu magistratum expediri debeat*, L. 176, *D. de Regulis Juris*.

ANSWERED, Bordy sold them the seed, *et omnia sua instrumenta rustica agriculture*: *quorsum hoc et cui bono*, if it was not an allowance to possess the land, which he could not do himself, being then in prison? and this being *presumptio juris*, must be sufficient to liberate them, since *causa quævis, etiam fatua*, is good enough to purge a spulyie, &c.—*Infra*, No. 642, [Historical volume, *Young* against *Hope* 3d October, 1677.]

*Advocates' MS. No. 612, folio 294.*

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1677. July 21. COLONEL HENRY BARCLAY *against* ALEXANDER ARBUTHNOT of KNOX.

ALEXANDER ARBUTHNOT of Knox, being charged upon a bond granted by him to Colonel Hary Barclay, to make the evidents of the lands of Knox forthcoming, when he should necessarily have to do therewith; suspended on this reason, that the colonel sought them merely out of malice to vex the suspender, and it may be to destroy the writs; and they could not condescend on any rational