

1622. May 27.

LAUDER against HOME.

In an action for proving of the tenor pursued by Mr. Alexander Lauder against Jean Home, for proving of the tenor of an infeftment of sasine given to unquhile Alexander Home of the Cross-gate of Coldingham, and his heirs male, in the year of God 1561, the Lords repelled an exception founded upon the like argument, as was proponed by John Murray against Drumlanrig *in terminis*, and sustained the action upon a case of admission founded upon the having of the said instrument by William Home of Grig, and upon his abstracting thereof, albeit it was offered to be proved, that he being pursued for having of the said instrument, was assoilzied therefrom. *Item*, In the same cause the Lords found no necessity to produce the protocol of Sir John Flint, which was extant in the Laird of Ayton's hands, seeing it was affirmed, that the said protocol was riven and cancelled, and the said protocol would be produced *in modum probationis*. *Item*, The Lords astricted him to prove *rei gesta veritatem* by witnesses who were present at the giving of the sasine, and found it was not necessary to prove the same *per testes instrumentarios*, except they were alive.

Kerse MS. p. 187.

No. 11.

What kind of
admonitions
admissible?

1622. July 24.

E. MELROSS against JAMES LUMISDANE.

The Lords found a tenor proved, albeit *rei gesta veritas* was not nor could be proved, in respect it was *factum antiquum*, and the witnesses dead, the pursuer having proved by witnesses that they saw the procuratories, and were present at the resignation. *Item*, Producing the contract whereby the party was obliged to dispoise with the instrument of resignation wherein the procuratory was inserted *ad longum*, with the King's charter following upon the resignation.

Kerse MS. p. 187.

No. 12.

1629. February 6.

RIDDELL against MIDDLEMIST.

In actions of tenor found no necessity of probation of *casus amissionis ubi tenor et rei veritas probatur*.

Kerse MS. p. 187.

No. 13.