

1677. *July 7.* MISTRESS JEAN GRAY *contra* SIR ARCHIBALD PRIMROISE.

THE Register's last lady puts 2000 merks in Ker of Moriston's hand, and takes bond in David Boyd's name to her own behoof; thereafter takes a blank assignation from Boyd; and a little before she died, by a paper under her hand, declares she wills that her son Archibald's name be filled up in the assignation. After her death, the Grays coming by the assignation, they fill up Mistress Jean's name in it.

The Register, in 1670, intents process against her, founded on his lady's destination and nomination, and that it was presumed to be his money. Mistress Jean on that, comes and gives him back both the assignation and bond, and he uplifts the money. Now, since his advancement, or rather degradation, Mistress Jean raises a summons against him, of declarator, that the bond was extorted by concussion, through his power that he then had; and she, through his boasts and threats, knowing his bloody, malicious, and vindictive humour, was forced to give it up. Much debate was upon the qualifications of the concussion, as irrelevant within the town of Edinburgh, the seat of justice, where she needed not be frightened. It might have been credible if it had been done in the Highlands. Yet *minor metus* is required towards the forcing a woman than a man, as to whom it must be *talis que cadere potest in constantem virum*; See Dury, 1632, *Cassie* and *Fleeming*.

They were to have the Lords' answer on the relevancy. But Sir Archibald, considering it would but blaze his name where he was not loved, therefore quietly found the libel relevant of consent, being assured he had not used such indirect methods.

This process was managed by Sir Jo. Dalr. with much bitterness. But he and his father would do well to consider, if concussion be once sustained, how their friends, who have got decreets in their time, have reason to fear the same measure on a change: *nec lex est justior ulla, quam necis artifices arte perire sua*; *Quod quisque juris in alterum statuerit, ut ipse eodem utatur*. See *alibi* more of this just retribution. See M'Keinzie's Pleadings, page 183, and Seneca there. They will do well not to lay preparatives and foundations against themselves, but use their power moderately. *Vide Tit. D. de Concussione*, and the lawyers on it; *vide infra*, 1st August 1677, *Master of Cathcart*, numero 634.

*Advocates' MS. No. 592, folio 291.*

1676, and 1677. The PARSON of PRESTONHAUCH *against* RAMSAY, &c. his PARISHIONERS.

1676. *November 28th.*—MR GEORGE SHEILL, Parson of Prestonhauch, pursues Sir A. Ramsay of Waughton, and his other parishioners, for the parsonage and vicarage teinds.

The defence as to the parsonage was upon standing tacks, &c. which see in the informations beside me. As to the vicarage, it was ALLEGED absolutor, because they have never, at least not these forty years past, been in use of payment of any other small teinds, but only for wool and lamb.