

they would allege transaction by writ, or that the same was given *interposita iudicis auctoritate*. The Lords otherwise repelled the objection, and found that the pursuer had action of repetition of the same being gotten from him in ward.

*Colvil MS. p. 405.*

No. 3.

1606. February 21. EARL OF ORKNEY against VINFRA.

The Earl of Orkney charged Andrew Vinfra to pay to him 2000 merks. He suspended that the contract was null, because it was extorted by fear and dead-dome; because the Earl having caused send this Vinfra to him to his castle in Zetland, presented to him this contract subscribed by the Earl, and commanded him to subscribe it, which the said Andrew Vinfra refused, wherewith the said Earl was so offended, that with terrible countenance and words, and laying his hand upon his whinger, he threatened with execrable oaths to bereave this Vinfra of his life, and stick him presently through the head with his whinger, if he subscribed not, and so for just fear he being compelled to subscribe it, the same was null. It was excepted by the Earl against the reason, that the same was not relevant to stay the execution of his decreet; which the Lords repelled, because it was only a decreet of registration of the contract by compearance of a procurator. Next he alleged, That the same could not come in the way of exception, especially because there was no fact nor deed libelled, but only boisterous words which could not be thought just fear, chiefly seeing he offered him to prove, that the said Andrew Vinfra, by his missive letter, had offered to contract upon these conditions before the date thereof. The Lords found the exception of fear very relevant, and sufficiently qualified; but in respect of the answer founded upon the missive letter, they ordained to produce the same before interlocutor.

*Haddington MS. v. 1. No. 1064.*

No. 4.  
The exception of *metus* sustained, arising from boisterous words only, used by a person of superior power.

1612. June 17.

A. against B.

A reduction at a woman's instance who had consented to an alienation made her husband of her life-rent lands, and which she had revoked after her husband's decease, was sustained *super capite metus reverentialis*, notwithstanding she had ratified the infestment by her oath given in judgment.—See APPENDIX.

*Haddington MS.*

No. 5.