

reckoning proceeds,) he cannot count for them here in this place. *2do*, The creditors have no right to them, who stand only infest in the maynes, and thir were never a part of the maynes. We had the Lords' answer on this also, and they found he could not count for them here; that which moved the Lords was the favourableness of the cause, being a tenant who had *bona fide* paid it already, though not warrantably, and to the right person, for double payment is most odious in law.

Then it was controverted anent the prices of victual these years for which he was to count; and my Lord declared he must count conform to the middle fiars of Hadington, and not conform to the highest, as Smeton pressed, though for some of it he might have got a greater price. See my informations of this cause.

*Advocates' MS. No. 150, folio 92.*

1671. *February 23.* His PARISHIONERS *against* REV. ARCHIBALD MACKINLA.

ONE Mr. Archibald Mackinla being pursued by his parishioners upon the act of Parliament, ordaining the parish to make the minister's manse sufficient to him at his entry, but appointing the incumbent to keep it up on his own charges and to leave it in as good condition as when he found it, and in case he neglect, ordaining action to be sustained against him, his heirs or executors, for refunding the damage, which, upon visitation, it shall be found to have received during his incumbency; Parl. 1612, cap. 8, *ibique* Paponius; act 20, *anno* 1663: but they subsumed he had deteriorated the said manse in the sum of 300 merks, which was made appear by cognition taken of it both at his entry and at his departure, finding it damnified in the said sum: *item* they pursued him both to pay them this 300 merks, as also to restore them their mortcloth which he had taken away with him at his departure. ANSWERED,—They were only disaffected persons, he being a loyal conformist minister.

The Lord Advocate found the summons relevant, only in case they succumbed in the probation that they deserved a very sharp censure.

*Advocates' MS. No. 151, folio 92.*

1671. *February 23.* The SCHOOLMASTER of Drone *against* some HERITORS in Dumbarrie.

THE Schoolmaster of Drone pursuing some heritors in Dumbarrie to pay their proportion of the stipend contained in the stent roll; ALLEGED,—They paid that proportion he charged for to another schoolmaster, and so could not also pay to him. ANSWERED,—That by acts of Presbytery they were disjoined from that place to which they alleged they paid that stipend, and annexed to Drone. REPLIED,—This disjunction and dememberation is only *quoad officium* but not *quoad*