

by the king's advocate's insisting only *ad vindictam publicam*; and so he is not bound to consign. *Vol. I. Page 618.*

1695. *January 25.*—James Scot of Bowhill against Andrew Ker of Littledean, mentioned 6th February 1694. The Lords found the intimation made by Littledean to Bowhill, at Sneip, not sufficient,—Bowhill proving he had not his domicile there, but dwelt with his wife and family then at Kelso: but found his voluntary removing from Littledean's lands at the Whitsunday, by leaving the houses void, and taking off his bestial, probable *prout de jure*; though some thought it only probable *scripto et juramento*, as being to take away a written tack. But they also, before answer, allowed Bowhill to prove that his removal was only from one roun to another, for better grazing; that the Lords might see *quo animo* he removed, whether in obedience to the warning or not. *Vol. I. Page 663.*

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1695. *January 25.* MR WILLIAM CARSTAIRS, the King's Chaplain, *against* MR JOHN FRASER, Minister at Glencorse.

CROCERIG reported Mr William Carstairs, the king's chaplain, against Mr John Fraser, minister at Glencorse, about 140 merks, as the prebendary-fee due to an organist of the chapel-royal. Mr William claimed it as part of the emoluments of that chapel, gifted to him by the king. Mr John sought it as annexed to his stipend in 1649.

The possession being unclear, the Lords granted a conjunct probation, to either party, to prove who possessed it before the year 1637,—the bishops being restored, by the Act of Parliament 1662, to all they were in possession of in 1637; and how it has been possessed since the restitution of episcopacy in 1662. *Vol. I. Page 663.*

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1695. *January 25.* MR WILLIAM CRAWFURD of DALEAGLES *against* The RELICT and CHILDREN of LIEUTENANT-GENERAL DOUGLASS.

HALCRAIG reported Mr William Crawford of Daleagles against the Relict and Children of Lieutenant-general Douglass, for repetition of 2000 merks, paid to him as a fine for church irregularities. The question was, If the Session, or the Commission of Parliament for fines and forfeitures, was competent?

The Lords found it not competent before themselves. Then ALLEGED,—They claimed it as *indebite solutum*, from the principles of the common law: but that *medium concludendi* was not libelled. *Vol. I. Page 663.*

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1695. *January 29.* STRAITON of LAURISTON *against* ALEXANDER ARBUTHNOT of KNOX.

THIS was a reduction of a certification in an improbation, *1mo.* Because it