enactments, and, although, in this case, we exonerate the parties from having acted with any *malus animus* in the matter, still they have brought themselves within reach of a wholesome law, and it is our duty to apply that law without any compassion or any attempt to mitigate its application.

Upon these grounds I concur in the motion of my noble and learned friend on the woolsack.

LORD COLONSAY.—My Lords, I participate in the regret which has been expressed by my noble and learned friend who last spoke, but I am compelled to arrive at the same conclusion to which your Lordships have come. I have a strong opinion that the motive of these gentlemen was such as my noble and learned friend who last spoke has ascribed to them, and not any intentional violation of the law. But I cannot accept that as any excuse in this case. The only point of any real difficulty that has been made here has been with reference to the introduction of these words "unless cause be shewn to the contrary." As to that, I think I ought to say, that I concur in the views which have already been expressed as to the import of that clause, and I see various grounds on which cause might be shewn, although I cannot put the construction upon those words which the Judges in the Court below have put on them. The case is assumed to have been completely and fully made out in the first instance. The trustee must prove his case; he must prove the agreement, which is, *primâ facie*, an offence against the Statute. The other party may "shew cause" that that is not necessarily the case, and, therefore, I cannot accept the construction put on that phrase by the Judges. I therefore concur in the judgment proposed by your Lordships.

Sir Roundell Palmer.—Perhaps your Lordships will allow me to remind you before judgment is pronounced, that the costs have been actually paid. In the order which your Lordships will pronounce on the present occasion you will doubtless provide for that in the usual manner.

LORD CHELMSFORD.—Yes; I think that will be right.

LORD CHANCELLOR.—My Lords, the question which I have to put to your Lordships is, to reverse the interlocutors complained of, of the Lord Ordinary and of the Court of Session, and to declare, that the Court of Session ought to have found that the respondents had forfeited the debt claimed by them on the sequestrated estates, and to have ordered them to pay to the appellant double the amount of the payment made to them, the respondents in the petition mentioned. And that the costs which have been paid by the appellant ought to be repaid to him, and with this declaration to remit the cause to the Court of Session.

LORD WESTBURY to Sir Roundell Palmer.—You do not ask for the expenses of the petition, do you?

Sir Roundell Palmer.—As the matter will be remitted to the Court below, I presume that that would follow as a matter of course, according to the course of the Court. No doubt I should have asked for them if it were necessary.

Mr. Asher.—There is no power under the Statute to award costs.

Interlocutors reversed, with a declaration and direction as to costs, and cause remitted.

Appellant's Agents, Waddell and Macintosh, W.S.; Simson and Wakeford, Westminster.—*Respondents' Agents*, Murdoch, Boyd, and Co., S.S.C.; W. Robertson, Duke Street, Westminster.

JUNE 8, 1871.

HER MAJESTY'S ADVOCATE, *Appellant*, *v.* FRANCIS BROWN DOUGLAS, and Others, *Respondents*.

Teinds—Bishops' Teinds—Augmentation—Burden of Proof—*In a process of augmentation of stipend, part of the teinds belonging to the Crown being alleged to be exempt as having been bishops' teinds before the Reformation, and appropriated to the bishop's personal use.*
HELD (affirming judgment), *That the* onus *lay on the Crown to prove the fact.*[1]

This was an appeal against a judgment of the First Divison of the Court of Session as to a scheme of augmentation of stipend. The minister of the parish of Montrose raised a process of augmentation. The common agent prepared a statement of the teinds of the parish, in order that the augmented stipend might be allocated among the heritors in accordance with their rights, and

[1] See previous report 6 Macph. 250; 40 Sc. Jur. 137. S. C. 9 Macph. H. L. 73. 43 Sc. Jur. 391.

in proportion to the amount of teinds in the possession of each. The main question raised afterwards in the case was, whether the burden of the stipend should be allocated on teinds belonging to the Crown, while the teinds of the respondents and other heritors were exempted, or whether, on the contrary, the Crown teinds ought not rather to be exempted, and the burden imposed on the teinds that belong to the heritors themselves. It was admitted, that unless it could be shewn, that this was a mensal kirk, and that the Crown teinds were bishops' teinds, that is, teinds which originally belonged to a bishop, and passed to the Crown at the abolition of Episcopacy in 1689—they would not be entitled to exemption. The Court of Teinds, reversing the judgment of Lord Barcaple, held, that the teinds were not bishops' teinds. The Lord Advocate thereupon appealed.

The Lord Advocate, and *J. F. M'Lennan*, for the appellant.

Sir R. Palmer Q.C., and *R. Lee*, for the respondents—

LORD CHANCELLOR HATHERLEY (after stating the facts).—It is remarkable that the evidence should be so deficient if the fact were as alleged by the Crown, because there are, as it appears, a variety of sources of information (indeed many of them have been ransacked for the purpose of the present inquiry) with regard to the bishop's property, which might have been had recourse to, and where evidence, if it existed, might have been expected to be found, of dealings on the part of the bishop with those teinds; but there has not been produced a single grant or disposition of any kind by the bishop of Brechin with respect to them. There has not been produced a single tack or other arrangement with respect to the teinds, or any other act of ownership except with regard to those teinds which everybody admits to have been at one time the bishop's.

That being so, I certainly do not contemplate going through the documents which have been produced, for they are extremely numerous, and much observation may arise upon several of them; but I stand here upon the broad grounds, that the *onus* being upon the Crown of shewing the bishop of Brechin held these teinds as a part of the teinds of the whole parish, (at all events at one time,) and the *onus* being on the Crown to shew how it is that such a very large proportion of these teinds have been entirely separated, (namely, the three or four I have already referred to, besides the whole quantity where the teind has been exhausted, and beside the whole class of those who have heritable right,) the only way in which that *onus* has been attempted to be discharged is by the production of the documents which the Lord Ordinary himself, who decided in favour of the Crown, said were undoubtedly ambiguous, although they might tend, if there had been other evidence corroborative of the fact, to establish the title of the Crown—one document, for instance, in which it is mentioned, that certain teinds in a certain enumerated set of districts, amongst which Montrose occurs, (not the whole teinds but teinds in those parishes,) belonged to the bishop; that is an admitted fact upon all hands. Your Lordships would not be here engaged in this inquiry if some teinds had not belonged to the bishop, in respect of which the Crown could assert a right. But the whole question being, whether the whole teinds belonged to the bishop, I really can find nothing to justify us in coming to a conclusion so contrary to the apparent state of the whole existing facts, which are wholly unexplained on the part of the Crown, and which would militate so strongly against the acquiescence of the Crown during a long series of years, now extending to a hundred years, in the course of which there have been four distinct processes, in which processes the Crown had an opportunity of appearing and making out such title as it might be advised to make out. I do not forget that there is a statement in an Act of Parliament that Montrose is a mensal kirk, but the question is, How is that statement to be reconciled with the state of facts and circumstances I have described?

I think, therefore, upon the whole, the conclusion we ought to arrive at is, that the two interlocutors, one of which is merely formal, with reference to the expenses, the other being the principal interlocutor, which determines the right between the parties, are correct, and that the present appeal should be dismissed with costs.

LORD CHELMSFORD.—My Lords, the question to be decided is, whether the burden of an augmented stipend payable to the minister of the parish of Montrose should be allocated on teinds in that parish belonging to the Crown before the teinds in the hands of heritors are exhausted. The question is one of fact, viz. whether the teinds now belonging to the Crown were formerly bishops' teinds. The *onus* of proving this fact having been thrown upon the Lord Advocate (the appellant), the Lord Ordinary was of opinion, that he had, by a concurrence of evidence, established, that the teinds of the parish of Montrose belonged to the bishop, and must have come to the Crown upon the abolition of episcopacy. But against this judgment the respondents reclaimed to the First Division of the Inner House, which recalled the Lord Ordinary's interlocutor, and found, that the appellant had failed to prove, that the teinds of the parish, other than those held by the heritors on heritable rights, and those belonging to St. Mary's College, St. Andrews, were bishops' teinds in the hands of the Crown.

The Lord Advocate complained, that Lord Curriehill, in delivering the judgment of the Court, considered, that the *onus* of proof lay upon the Crown to prove the character of the teinds. But the Lord Ordinary, who was in his favour, was of the same opinion, and said: "It lies upon the

Crown to prove, as matter of fact, that the teinds belonged to the bishops of Brechin," and he added, " In the present case the burden of proof is more stringent in consequence of the long period of time during which they have been treated as if they did not possess that character." And assuredly this must be right; for where there has been a submission to a certain course of proceeding for at least a century, it is only reasonable that in an attempt to disturb it by a party who has so long acquiesced, he should be required to establish, by evidence of the most satisfactory kind, that all that had been previously done was wrong, and ought to be corrected.

The appellant, undertaking this proof, endeavoured to establish, that before the Reformation the church of Montrose was one of the mensal churches of the bishops of Brechin, that is, a church that had been appropriated by the patron to the bishop, so as to become part of his own bishopric. He has no doubt proved, that a considerable part of the teinds of the parish belonged to the bishops of Brechin, but he has failed to shew under what title or in what relation. He has not attempted to explain how it can be consistent with the church being a mensal church, that the teinds of several properties in the parish should be held by heritors with heritable rights, and how these heritors should have been so long permitted to enjoy an immunity from allocation until the teinds in question were previously exhausted. It may indeed have been, that the teinds were conveyed to the owners of these heritable rights by the bishops while prelacy existed, or afterwards by the Crown. But in such case the heritors would be entitled to the privilege they have enjoyed against those from whom they derived their title. The respondents indeed contend, that even if the church of Montrose had been proved to be a mensal church, the teinds belonging to it would not be entitled to any privilege in order of allocation. But the appellant having left the fact itself unproved, it is unnecessary to consider the question of law.

It is impossible not to feel how strongly the former localities are opposed to the claim of the Crown. In all these localities the Crown's teinds were localled in the order contended for by the respondents. In two at least of these proceedings the Crown was called as titular, and whether there was an appearance or not seems to me to be immaterial. For although, if the stipend of the minister had continued without augmentation, the Crown would have been bound by a locality following the order of prior localities, yet upon each augmentation of the stipend an opportunity was afforded of raising an objection, and having the locality rectified. The omission to take this step upon each successive occasion cannot be supposed to have arisen from ignorance of what had been previously done, and the long acquiescence in what is now alleged to have been erroneous raises the strongest presumption against the present claim, which could only be rebutted by conclusive evidence in its favour, which the appellant has failed to give. I agree with my noble and learned friend that the interlocutor appealed from ought to be affirmed.

LORD COLONSAY.—My Lords, I have arrived at the same conclusion with reference to this case. The origin of the question has been correctly stated by my noble and learned friend on the woolsack. The ordinary course of arranging the incidence of an augmentation of stipend has been pursued in this case. *Primâ facie* I may say, that the rule is very clear, but although there is such a rule for allocating teinds, there are here three classes of teind, as has been stated by my noble and learned friend. There are lands in respect of which the teind is already surrendered and exhausted. There are teinds held by heritors under heritable rights, and there undoubtedly may be teinds of which the Crown is titular, and in respect of which they are entitled to the privilege of having their contribution to the augmentation of stipend postponed to those belonging to the heritors. In the present case such a question has been raised. The party who arranged the scheme of allocation has followed what appeared to him to be the ordinary rule, and what was the rule followed in previous localities. He has placed the teinds which he calls free teinds, of which it appears that the Crown is titular, as teinds which are to be allocated, and which are to contribute to this stipend, prior to the teinds of those holding heritable rights, and he has placed the teinds which are held by the college of St. Mary, St Andrews, as the last to be brought into contribution for this purpose. The only question here is between the teinds of heritors who hold heritable rights, and the teinds of which the Crown is the owner. Now, it is undoubtedly the law, that the Crown holding teinds of a certain description is entitled to plead the privilege attaching to those teinds, that they are not to be allocated upon until all other teinds in the parish, except those which belong to colleges and universities, have been exhausted. And the question is, whether, in the present case, the teinds in the hands of the Crown, or any portion of them, possess this privilege. This privilege does not attach to the teinds merely, because the Crown is the titular; that circumstance does not give the privilege. Nor does it attach to all teinds in the hands of the Crown which formerly belonged to the church, or to church dignitaries, as those, for instance, which belonged to religious houses or to college churches or chapels, but only to such teinds which belonged to bishops, and not to all the teinds which belonged to bishops, but only to such as belonged to the bishops at a certain period, that is before the Reformation, and not to all that were possessed by the bishops at that period, but only to such as had been appropriated to the bishop for his own personal support and maintenance. It did not belong to teinds which had belonged to religious houses and had come to the bishops or their chapters, or to which they had a right as patrons, or to which they acquired a right after the Reformation.

The privilege, therefore, only belongs to a certain class of teinds, formerly to bishops, and now in the hands of the Crown as in place of the bishops, viz. those which had been appropriated to the bishop for his personal use, as I have stated. The purpose for which such teinds were appropriated suggests the reason only why they were privileged while in the hands of the bishops. It is not so clear why the privilege should exist after that purpose ceased. Nevertheless there are repeated decisions in Scotland to the effect, that the privilege does attach to such teinds, so long as they are in the hands of the Crown. The privilege is not capable of being transferred by the Crown, if the Crown should transfer the teinds to other parties who may have purchased them, but so long as they remain in the hands of the Crown the privilege attached to them, not exactly as it did in the case of the bishop, for in the case of the bishop there was an exemption, except so far as the bishop chose to give them to a vicar, who did duties for them. But it is a privilege merely of the postponement of the liability for the augmentation of the stipend.

Doubts have been thrown upon that doctrine in a recent case by Judges whose opinions are entitled to great weight, but I believe there is no decision of this House confirming the judgment of the Court below upon that point, and I do not think that we are called upon in this case to disturb that state of matters; and undoubtedly the Court below must follow the rule which has been prescribed to it in previous cases.

What we are called upon to decide is, that the teinds of the parish of Montrose, except those that belong to the college of St. Mary's, St. Andrews, and those belonging to heritors having heritable rights, are of the particular class to which the privilege attached. The Lord Ordinary says, that after some hesitation he has come to the conclusion that the evidence is sufficient, and he has pronounced judgment to that effect in favour of the Crown. The Inner House, the First Division of the Court, have altered that judgment, having come to the conclusion, that there is not sufficient evidence that the teinds are of that particular character which entitles the Crown to the privilege.

Now the question is plainly a question of fact, and it has been so treated both by the parties and by the Court. It is a question of evidence, whether the teinds are proved to be of that particular class that possessed the privilege. Now in regard to that question of fact, I think there can be no doubt that it is incumbent on the party alleging the fact, and claiming the privilege founded on that allegation, to establish clearly, that the teinds are of the class to which the privilege attaches. That proposition is not only recognized by the Lord Ordinary in the note to his interlocutor, but it is a doctrine which, if it required any authority, has abundant authority to support it. It is laid down expressly by the late Sir John Connell in his book, and it is also laid down by Mr. Buchanan in his book, two of the most recent authorities on the subject.

Then that being so, the question is, as I have stated, whether the presumption which, as the Lord Ordinary says, is against the Crown, and is increased and made more intense by the fact, that for upwards of a century allocations of stipend have been made on the footing, that the teinds in the possession of the Crown in this parish had no privilege—whether that presumption has been overcome by sufficient evidence.

The Lord Ordinary thinks it has; the Judges of the Inner House think it has not.

Now applying myself to that question, and looking first to what may be called the negative aspect of the case, I find that while the contention of the Crown is, and apparently must be in this case, that Montrose was a mensal kirk of the bishop, thereby implying an appropriation for his own personal use of the whole teinds of the parish with possibly some small exceptions, there is no direct evidence of any appropriation to the bishop of the teinds of the parish or kirk. That is a most remarkable absence of evidence. The records of the bishopric of Brechin have been tolerably well preserved and are printed, most of them in a book that was cited at the bar, and yet there is no trace of any appropriation of these teinds to the bishop for his own use.

Then there is another fact which is also a very pregnant negative; there is no evidence of any of the bishops of Brechin having at any time granted dispositions or tacks of these teinds, or exercised in regard to them any act of ownership indicating a patrimonial right in them. Now it is difficult to suppose, that there would be a total absence of all such evidence if there really had been such an appropriation of those teinds.

Then there are other facts tending in the same direction. It appears, that in 1517, the teinds of Newmanswalls were granted by the Crown, not to the bishops, but to the hospital of Montrose. It appears further, that in 1577 and 1586, the teinds of Kinnabar belonged to the canons of the cathedral church of Brechin, and afterwards came to the college of St. Mary, St. Andrews. So also as to the teinds of Clayleck, which belonged to other parties. None of these, therefore, could have been patrimonial teinds of the bishop; and yet they form a large portion of the teinds of this parish. This fact is strongly adverse to the theory of Montrose being a mensal church of the bishop. Then there is the fact to which both my noble and learned friends have alluded, and which appears to me to be almost insuperable, that for more than a century, during which there have been several processes of locality, the teinds of which the Crown is titular have been dealt

with as not possessing any privilege, and have been localled on as not possessing any privilege prior to the teinds in the hands of heritors having heritable rights to their teinds.

Such is the negative aspect of the case as against the claim of the Crown, which appears to me to be exceedingly strong, and I agree with the Lord Ordinary, that it would require very stringent proof indeed to overcome that condition of evidence. What then is the evidence in support of the new contention adduced in the present locality? It consists of inferences drawn from entries in certain documents. Now, in regard to these documents, it appears to me that they do not afford very strong evidence for such a conclusion as they have been adduced for. In the first place, as to some of the documents that are founded upon by the appellant, the Lord Ordinary attaches little importance to the various rentals that are produced, extending over several years, and for this reason: it appears from these documents, that all that could be put into them, as in any way pertaining to the bishopric at that time, were four parcels of teinds. Now that, he says, is a reason why he attaches little importance to these entries. But I think that state of matters indicates another negative inference against the contention of the Crown. Because if this was a mensal kirk, and the bishop had a right, as it is said in this case, to the whole teinds of the parish for his own personal use, it is difficult to suppose that his right would have been limited to these four parcels of teinds. Further still, it does not appear distinctly from these rentals, by what title the teinds in these parcels were held, whether they belonged entirely to the bishop or whether they were teinds of the chapter, or what was their particular character, because the rentals relate to the whole diocese. Then there is another fact connected with these four parcels, and it is this: that while they are alleged to belong to the bishop because they are mentioned in these rentals, yet it appears that three of these four parcels are among those lands the teinds of which have been exhausted and surrendered; therefore they are now out of the question. And I think these rentals rather throw more difficulty in the way of the Crown than aid them in the contention they are now making.

Then there are other documents which are founded on, both by the Lord Ordinary and by the appellant. In the first place, there is a document called "a Taxation of the Churches of the bishopric of Brechin." It shews, that Montrose was amongst the churches of the bishopric of Brechin. The appellant says, that he does not found upon this as shewing that the church of Montrose was a mensal church, but only as shewing that it had something to do with the taxation within the bishopric of Brechin. A difficulty is raised by the respondent. He says, that the parish of Montrose is not mentioned. He says, that Munros, which is mentioned, is not Montrose. I am not satisfied about that. I do not think it is clear that Munros may not possibly have been Montrose. But, however, this document is not founded upon as shewing, that the bishop had a right to the teinds of Montrose, for his own use, or that Montrose was a mensal kirk. The appellant disclaims that use of the document.

Then there is a document which is much founded on, and to which the Lord Ordinary refers, which is the Register of the Brechin teinds, which is founded upon for this purpose to shew, that Montrose was a perpetual vicarage, and therefore it is inferred, that the teinds belonged to the mensal church of the bishop. I cannot go along with that. When we look to the history of the appointment of vicars, I think it does not support that inference. The vicars, appointed by the bishops in those parishes where the teinds were appropriated to their own personal use, were individuals whom they appointed to do the duties for them to save them the trouble, and they held their office not in perpetuity, but during the pleasure of the bishop, and they had only such stipend as the bishop chose to assign to them so long as he chose to retain their services. But the perpetual vicars were in a different position. They were appointed by the chapters and other parties who had the right of appointment, and they required the confirmation of the bishop, but when that class of vicars were appointed, they had special stipends assigned to them, and they were not removable. The bishops' confirmation established them in their position. We see from an excellent authority upon this subject, Lord Stair, that that was the position of the perpetual vicars. Therefore it is not to be inferred, that because there was a perpetual vicar in Montrose, therefore the teinds of the parish of Montrose were teinds belonging to the bishop for his own use, but rather to my mind the circumstance of the vicar of Montrose being described as a perpetual vicar implies, that he was one of the vicars of the class to which Lord Stair alluded, and to which all the authorities allude as persons different from those vicars who were appointed during the pleasure of the bishop.

Then there are the rentals of the great benefices at the general assumption in 1561, and the rentals of the bishopric of Brechin. Then there are the books of assignation and modification of stipends, and the surplus book of the thirds of benefices. All these are referred to to shew that the rental of the bishop of Brechin included the teinds of Montrose. I have already referred to some of them. But I may observe, that the expression which has been referred to in one of them, as to the teinds in the parish of so and so, does not, as the Lord Ordinary observes, imply that the whole teinds belonged to the bishop. But supposing that the teinds of the four parcels which we do trace in the rentals belonged to the bishop, that expression would be perfectly correct, and yet those four parcels are now entirely out of the question. They form no portion of the teinds now

in question as to whether they did belong to the bishop or not. Then it is to be observed, that these rentals include all the great benefices. They were not the rentals merely of those which belonged to the bishop for his own use. But they were the rentals of all the great benefices, whether belonging to the bishops or abbots, or the great houses, or to other parties. Then the rental specifies four parishes of which the teinds were in Montrose, but of two of these, Maritoun and another, teinds certainly did not belong to the bishop for his own use. So that to deduce as an inference from this document that the teinds which were not mentioned in it were teinds which had been appropriated to the bishop for his own personal use, is a very loose inference, which I think can receive scarcely any support. It is a theory, but nothing more. Then the other documents to which I alluded, which comprehend the four parcels I have mentioned, the Lord Ordinary considers to be documents of no value, and I have stated my reasons for concurring in that opinion. Then there is one document which shews, that the stipend was made up by some arrangement, the origin of which is not now known, but to which the bishop contributed. Now that hardly affords sufficient ground to say, that that shews that the teinds were the bishop's for his own personal use, because we see that an effort was being made to bring together the stipends of ministers from various sources, and we see that teinds in other places which clearly were not within the bishopric of Brechin were from time to time appropriated to the minister. There remain certain other documents which have been referred to, and which I shall merely notice, because I think that, compared with the negative evidence, they have very little weight. I refer, in the first place, to the presentation of Mr. Lamb in 1607, from which it appears that the rights of the chapter were annexed to the bishopric. That does not shew that these teinds belonged to the bishopric, and it does not shew what title or what kind of interest the bishop had in them. Teinds that belonged to a canon church or chapter were not bishops' teinds, and they were granted only for the purpose of providing stipends, and were no part of the bishop's patrimony at all. Then there is an Act obtained by the Magistrates of Montrose in 1690 describing Montrose as a mensal church. Now the narrative by the Magistrates of Montrose in an Act which they obtained with the object of procuring from the Crown a grant of these teinds was of little consequence. It mattered little to them in what character the Crown possessed them, or how the Crown got them, provided they obtained their object. And we have no evidence to support the allegation which they made, that they belonged to the Crown in the character represented by the appellant, so that, upon the whole, I think that although the documents referred to contain scraps of entries here and there which might go to make out a case, if there were nothing to set up against it, any inference that might be drawn from them is so completely overpowered in this case by the usage which has taken place, and the manner in which these teinds have been dealt with upon repeated occasions of localities, that I cannot think that they afford evidence sufficient to enable us to say, that the Crown has discharged the *onus* which is incumbent upon it of establishing that these teinds are of a character which entitles them to the privilege that is claimed. I therefore think that the judgment appealed from ought to be affirmed.

Interlocutors complained of affirmed, and appeal dismissed with costs.

Appellant's Agents, Warren H. Sands, W.S. ; Loch and Maclaurin, Westminster.—*Respondents' Agents*, Mackenzie and Kermack, W.S. ; Connell and Hope, Westminster.

JUNE 19, 1871.

GEORGE EARL OF PERTH, *Appellant*, *v.* WILLIAM LORD ELPHINSTONE, and Others, Trustees, *Respondents*.

Treason—Attainder—Heir of Entail—Forfeiture—Restoration Act, 24 Geo. III. c. 57—*In* 1746, *James was the heir of entail infeft in certain estates held under an unrecorded deed of entail, and James and John his brother were attainted, and the estates became forfeited for high treason after James's death at a time when John, the apparent heir of James, was in possession. The estates were thereupon seized by the Crown and held by the Commissioners of Forfeited Estates until* 1785, *when Lord Perth, on proving himself the heir male of John, the Crown conveyed the estates to Lord Perth, and his heirs and assigns, under the Restoration Act*, 24 *Geo.* III. *c.* 57. *In* 1868 *the Earl of Perth, who served himself the nearest lawful heir male of James, sought to reduce the titles of Lord Perth's heirs:*