

1674. *February 3.* JEAN BLAIR, Relict of umquhile ALEXANDER FERGUSON, *against* The PARISHIONERS of KINGARTH.

JEAN Blair, being assigned by her husband to a decret conform, obtained at his instance, against the parishioners of Kingarth, as having right to the teinds, parsonage and vicarage, of the parish, which was a prebendary of the Chapel Royal; she did thereupon insist against the heritors for their vicarage teinds.

It was ALLEGED for Stewart of Kilchattin, one of the heritors, That he ought to be assoilyied, because he had right, by progress, to a tack granted by Mr Archibald Sinclair, who was then prebend of the Chapel Royal, of the whole parsonage teinds of his lands for years yet to run; and, by virtue thereof, had been in possession of his whole teinds, parsonage and vicarage; so that, unless the pursuer can allege that her cedent, by virtue of his right, had *decennalem et triennem possessionem*, the pursuer could pretend no right.

It was REPLIED, That vicarage and parsonage were *distincta jura* of their own nature, and a tack of the parsonage could not include the vicarage; so that there was no necessity to prove *decennalem et triennem possessionem*, Kilchattin having no title or interest in the vicarage.

It was DUPLIED, That albeit, in the greatest part of Scotland, parsonage and vicarage teinds are distinct and separate rights, yet, in the Western Isles, the Bishops within their quarters, and parsons presented to a parsonage only, by virtue of their office, without mentioning any thing of vicarage, have right thereto, and their tacksmen: likeas, by the committee of plat, the minister of Kingarth did get an augmentation and locality of £40 out of the vicarage teinds, wherein the prebend was called and compearing.

The Lords did find, That albeit, within the Bishop's quarters, there was no distinction of parsonage and vicarage, that being a particular custom in the Lewes as to the Bishop's quarters, yet the prebend of Kingarth being presented both to parsonage and vicarage, which were distinct rights of their own nature, as tacksman of the parsonage only, not mentioning the vicarage nor the prebendary in general, did not comprehend the vicarage; and so repelled the defence, and sustained the summons, in respect of the reply.

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1674. *June 12.* The COMMISSIONERS for LINLITHGOWSHIRE *against* The FREEHOLDERS.

IN a pursuit, at the Commissioners' instance, for payment of their fees, conform to the late Act of Parliament of the first session;—it was ALLEGED, That, by the said Act of Parliament, there was only allowance given of £5 *per diem* for every day that they should sit and attend the Parliament; whereas it was offered to be proven that the Parliament did not sit, but was adjourned many of the days for which allowance was craved; and that, during the time the Parliament did sit, they were not actually present, but absent many days.

It was REPLIED, That the Act of Parliament was opposed, which bears an allowance for every day from the first to the last day of every Parliament, as