

mentions the bibliothecar to be accountable to the Town, and them to employ the Doctor's money for purchasing this rent; which imports them to be patrons, whereof they have been in possession by presenting several bibliothecars; and, by a contract with the first bibliothecar, named by Doctor Reid, they are acknowledged as patron, wherein the principal of the College is subscribing witness. It was answered, That the confirmation being a legal sentence, it is not null, whatever may be the interest of the commissary in the quots or confirmation; and, that the mortification being without any mention of patronage, it gives the College a free election; and the subscribing of the principal, as witness, imports nothing. The Lords repelled the defences, and found, That the College had the free power of election, without any patronage.

*Vol. II, Page 330.*

1675. *July 9.* SIR JOHN CHEISLIE *against* The LAIRD of WALSTOUN.

SIR John Cheislie having raised a cognition, before the Sheriff of Lanerk, against ——— Baillie of Walstoun, for clearing his right of property or commonty to a piece of marsh ground lying upon their march; Walstoun did raise another cognition before the said Sheriff, by way of re-convention. Upon both which processes an inquest of fifteen were chosen, and the parties did cast lots for the odd man, which befel to Walstoun; so he choiced eight, and Sir John Cheislie seven. There were three witnesses examined for either party, and two common witnesses. The testimonies being perused by the inquest, six voted that it was proven Sir John had commonty in the piece of ground controverted; Eight were not liquid; and the chancellor of the inquest voted not, nor returned any verdict. Whereupon Sir John Cheislie gave in a bill of advocation to the Lords, desiring that they would either declare, that, where six of the inquest voted for commonty, and eight were not liquid, that the inquest and Sheriff ought to proceed to determine commonty; or otherwise, that the Lords would advocate the cause, and determine the probation themselves. Walstoun, having desired to be heard upon this bill, he alleged, That the progress of the cognition being as aforesaid, the same was null, and there would be no further process thereupon; but he had a declarator of property of the ground in question depending, which would determine the whole matter, both as to right and possession; and in which he was content Sir John Cheislie should have a joint probation, upon which the testimonies of the witnesses taken might be renewed. *2do.* Whatever were to be done upon either process, he ought to have more witnesses. The Lords advocated the cause upon the bill; and ordained the process and testimonies taken before the inquest, to be produced, to be advised by the Lords; at the advising whereof they would hear the parties, whether there were any further witnesses to be used.

*Vol. II, Page 342.*

1675. *July 22.* JOHN BROWN *against* GEORGE HERRIOT.

JOHN Brown pursues a reduction of a decret-arbitral betwixt him and George