

ALVA. Have persons on whom such rights have been conferred, ever pretended to exclude others?

JUSTICE-CLERK. I will not inquire into the general question. There is a just foundation for a rent established on houses, boats, and fishing. From the conveniency of situation, fishers can afford to give a rent. Here is a fixed standing rent. There are such rents on many parts of the coast of Scotland.

On the 6th August 1773, "The Lords found that the freeholders had done right in enrolling Mr Duff."

Act. H. Dundas. *Alt.* D. Rae.

Diss. Alva. *Non liquet*, Coalston.

1773. November 17. SIR JOHN NISBET and OTHERS *against* The KIRK-SESSION of WESTKIRK.

KIRK SESSION.

Heritors have no vote in the election of a Precentor and Session-clerk.

[*Fac. Coll. VI. 228 ; Dictionary, 8016.*]

KENNET. The Act 1696 gives no right to the heritors, neither does practice give them a right. My only doubt is, whether the session is not barred from their exclusive right of election by the agreement 1770.

HAILES. I think that the session did not surrender its right, and that it could not surrender its right.

COALSTON. There are no words in the agreement strong enough to bind the Kirk-Session in time coming.

On the 17th November 1773, "The Lords assoilyied;" adhering to Lord Auchinleck's interlocutor; and found expenses due since that time.

Act. Ilay Campbell. *Alt.* J. M'Laurin.

1773. November 30. JOHN COWAN and COMPANY *against* HENRY and KATHERINE STORARS.

MUTUAL CONTRACT.

[*Dictionary, p. 9142.*]

AUCHINLECK. This subject was moveable, and fell under the *jus mariti*. The aliment was *ex pietate*; for the subject did not, at that time, bear interest.