

1776. November 21. WILLIAM THOMPSON *against* ANDREW CROMBIE.

PUBLIC POLICE.

The proprietor of a house within burgh has right to prevent any conterminous proprietor from painting his name, or erecting a sign upon it, against his will.

[*Fac. Coll.*, VII, 300; *Dict.*, *App. No. I.*; *Pub. Pol.*, *No. I.*]

GARDENSTON. This sign is *innocæ utilitatis*, and the tenant who possesses the house does not complain.

KENNET. I doubt of the interlocutor. It is admitted that the whole house belongs to Crombie, and I do not see how any thing can be put on his wall without his consent.

COVINGTON. The insignificancy of the cause will not vary the principles on which it ought to be determined. The plea of *innocæ utilitatis* is not receivable, as was determined in the case of the *Earl of Eglinton and Fairlie*; for property is a sacred thing. If Crombie may put up a sign, so may any person in the close; and thus there will be no room for Thompson's tenants to put up signs.

PRESIDENT. When I set a house to a tenant, it is with the power of his using it for his own advantage, not for that of others. As most tradesmen live in closes, the argument used by Crombie will lead to this, that tradesmen may load the house next to the street with as many signs as they please.

KAIMES. The tenant lies by and says nothing. Thompson asks Crombie why do you put up the sign? Crombie answers, The tenant gives me leave. Thompson replies, *Where* is that consent? there is no such thing. The tenant remains with his arms across, and lets the landlord fight his battles.

On the 21st November 1776, "The Lords found that Crombie has no right to affix his sign on the house;" altering Lord Monboddo's interlocutor.

Act. Adam Ogilvie. *Alt.* Allan M'Conochie.

Diss. Gardenston, Monboddo.

1776. November 21. LIEUTENANT-COLONEL JAMES ST CLAIR *against* MISS JEAN ALEXANDER of Rosebank.

KIRK.

Whether there can be exclusive property in a seat in a church?

[*Fac. Coll.* VII. 263; *App. I.—Kirk*, *No. I.*]

HAILES. It is not proved that Yaxley Davidson erected this seat and possessed it for forty years previous to the citation in this process. But, independ-