

1692. *December 1.* SIR WILLIAM ASHURD *against* THOMAS ROBERTSON.

SIR WILLIAM ASHURD *against* Thomas Robertson. The Lords found that regularly this bond could not be taken away by examining witnesses *ex officio* to prove it was retired; but allowed the Ordinary to hear them, on thir points: Whether William Cokburn's oath might not be taken as to the way and manner how he came by it, being delivered blank, and having filled up his own name in it; seeing there was an instrument taken against him by Thomas Robertson before he assigned it. *2do*, That he was now broke. *3tio*, That he assigned it to Mr. William Dallas, his own son-in-law, a conjunct person, and so it is presumed to be without an onerous cause; and whether these specialities might not bring it to William Cokburn's oath, whether he had it for an onerous cause; or if only Ashurd's oath could be taken, if his cause was gratuitous; or if the witnesses in the instrument must be first examined as to the verity thereof; and if the Commissaries had committed iniquity in finding it only probable *scripto aut juramento*, seeing the *nobile officium*, by which witnesses only can be examined in such cases, does privately belong to the Lords of Session, and cannot be exercised by inferior judges.

*Vol. I. page 525.*

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1692. *December 2.* WILLIAM TILLIDAFF *against* The LAIRD BALLMEDY, &c. Parishioners of Dunboog.

MR. WILLIAM TILLIDAFF, now Principal of St. Leonards, at St. Andrews, *against* the Laird of Ballmedy, and other parishioners of Dunboog. The Lords preferred Mr. Tillidaff to the stipend, and found he was minister there in 1661, and so was restored in the Parliament 1690; and that he was willing to re-enter, and did preach, but got not suitable encouragement from the parishioners; and therefore had right to the stipend till he was settled in St. Andrews.

*Vol. I. page 525.*

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1692. *December 2.* THOMAS FORRESTER, late Minister at Kilcarn, *against* PARISHIONERS, and the MARQUIS OF MONTROSE.

MR. THOMAS FORRESTER, late minister at Kilcarn, *against* his parishioners, and the Marquis of Montrose, as patron, who craved to employ the vacant stipends within the parish, on pious uses.

The Lords found it relevant to give Mr. Forrester the stipend, that he had a call to that parish by the Presbyterians, in the Episcopal times; that he served the cure there during the time he craves the stipend; conform to the 7th act 1690, establishing Presbyterian government; and that since the legal power was by act of Parliament put in the Presbyterian minister's hands, they did, by their act of synod, first declare him minister of Kilcarn, (when Kincardine was striving to have him,) and then transported him to St. Andrews.

*Vol. I. page 525.*