

1758. July 12. PETER SIMSON *against* HAMILTON of PENCAITLAND.

No. 2.

Found contrary to the preceding decision, that the new style must be the term for determining payment of a stipend.

Matthew Simson had been ordained Minister of Pencaitland before the late correction of the calendar. He died on the 20th of May, 1756.

Peter Simson, his son and executor, claimed, in terms of the act 13. 1672, one half of that year's stipend, on account of his father's incumbency, and another half as the ann, in respect his father had survived Whitsunday new style.

Mr Hamilton of Pencaitland, patron of the parish, claimed the half-year's stipend due at Michaelmas, 1756, as vacant stipend, in respect Matthew Simson had not survived Whitsunday old style.

The question was, Whether the determination of a Minister's stipend, who had been settled previous to the correction of the calendar, is to be regulated by the new or the old style?

The Lords had, in a former case, Anderson against Executors of George Home, found, that the old style was the rule. *Vide* the arguments on both sides, No. 1. p. 14839. But now, on the contrary,

“The Lords preferred the executor of Matthew Simson.”

Act. *J. Dalrymple, Advocatus.*

Alt. *Hamilton Gordon, Lockhart.*

*J. D.*

*Fac. Coll. No. 124. p. 229.*