

1693. *January 6.* DAVID WATSON *against* DAVID MILN.

MR. DAVID WATSON, preacher of the gospel, against David Miln in Achinblae. The Lords found it an atrocious injury to slander a minister, by calling him in all companies a thief; and therefore sustained the decreet, both as to the *palinodia* and recantation, and as to the L.100 of fine, unless he prove, that the procurator's compearance for him was officious, and that he was lying sick at the time. But on a bill given in by Miln, the Lords granted warrant for transmitting the probation from the commissary of St. Andrews, in regard sundry nullities were condescended on.

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1693. *January 10.* JOHN MUSHET, Schoolmaster, *against* The KIRK-SESSION.

MR. JOHN MUSHET, schoolmaster, against the kirk-session of The Lords would not turn Mr. John's decreet into a libel; but in fortification thereof, ordained the minister and clerk to produce the session-books, to see if the articles of salary, house-mail, &c. claimed by Mr. John, were in use to be paid by the former treasurers; for Dean, the present kirk-treasurer, could not swear on what was before his time; and the Lords thought there was no need of forty years prescription to establish such dues.

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1693. *January 10.* BARBARA LITTLEJOHN *against* WEIR of Stainbyers.

BARBARA LITTLEJOHN against Weir of Stainbyers. The Lords found her ineftment in the muir *cum communi pastura* gave her no interest to hinder the heritor, or superior of the muir to rive out some parts of it, and turn it to corn; nor could she crave a part of the corns growing thereon; but only that he should be decerned *nomine damni* to pay her the value of the grass and pasturage she wants by his tilling, and of the fuel, divot, and other lesser servitudes included in pasturage.

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1693. *January 10.* WALLACE of Nulstownside *against* The EARL of DUNDONALD and his Feuars.

WALLACE of Nulstownside against the Earl of Dundonald, and his feuars. The Lords sustained the pointing of the ground on the seasine and other documents produced; albeit, the heritable bond of corroboration, which was the immediate warrant of the seasine, was not produced, but only an extract of it out of the register of reversions; which is not a register for execution, but for pre-

servation. But the Lords thought there was enough produced here as adm-
 nicles to prove and make up the warrant of the seasine, the original bond being
 also produced; though others inclined to cause them produce the second bond
cum processu. *Vol. I. page 543.*

1693. *January 10.* The EARL OF TARRAS *against* SIR JOHN DEMPSTER of
 Pitlever.

THE Lords advised the debate between the Earl of Tarras and Sir John Demp-
 ster of Pitlever. The Lords, before answer, whether this was true and real pay-
 ment made by Sir John, to the Earl of Seaforth, donatar, ordained Sir John to
 depone if he made actual payment, or if it was a transaction, and what was the
 nature of it, in presence of Keery of Gogar, and Sir Patrick Murray, who were
 comuners at the agreement. Some of the Lords were for declining themselves
 in this case, as they had done between Middleton and Waterside; others for su-
 perseding to give answer till the Parliament met, at least, to the 12th of Febru-
 ary, which is two days after the day to which it is now adjourned; as they had
 done in *Scott of Vogrie's* case *against Sir Duncan Campbell of Auchinbreck.*
 But the Lords had formerly sustained themselves Judges, and given sundry in-
 terlocutors in this cause; so the act, before answer, was agreed upon.

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1692. *December 23, and January 10, 1693.* LESSLY of Balquhain *against*
 IRVINE of Drum.

1692. *December 23.*—LESSLY of Balquhain *against* Irvine of Drum, and his
 administrators, who sought to stop his general adjudication, and restrict him to a
 partial one, by offering him a progress.

The Lords did not regard his objections against the writs produced as defec-
 tive; for they supplied that two ways, by referring to his oath, that he knew
 Drum's right to his lands these 500 years bygone has been incontroverted, and by
 offering to bring the Chancery-books and other records, for instructing his char-
 ters and retours; neither did the Lords notice much Balquhain's condescendence
 upon incumbrances; for his debts were prior thereto. But they ordained his ge-
 neral adjudication to go out, and would neither stop nor restrict it; because
 there was no party here to renounce the possession, and dispone the parcel, which
 was to be given him off, for his money. Though the President and sundry ar-
 gued, that Drum being a weak man, he was to be repute in the case of a minor;
 and so his administrators might renounce and dispone. But the Lords thought
 this would not secure the adjudger, and that thir administrators had not the power
 of tutors or curators, much less could have a despotic and arbitrary power of con-
 senting, renouncing, and disposing. And though they had all tenderness for sup-
 porting this ancient estate, especially when fallen into the hands of one near to an