

and all the rent it was proved to have yielded at a time was about L.15 Scots. During the late incumbent Mr Kidd's life it fell totally in disrepair; and the present incumbent Mr M'Auley sues the executors of Kidd to repair the houses, and for damages. But we thought that a common action did not lie even for repairing of manses, or the Popish Clergy would not have suffered their manses to go into disrepair, and the acts of Parliament for remedying the abuse, particularly 8 act 21 Parl. James VI. would have been useless: That this would not fall under the statutes anent conjunct feuars and wardatars, no more than manses, nor could it fall under the laws anent manses, because it was not declared sufficient at Kidd's entry. Therefore they found that no action lies against these executors. But Kilkerran thought that if the houses had been sufficient at Kidd's entry, though no manse for the Minister, he would have been bound to uphold them. Woodhall only differed, and stated the case of the parish newly erected at Whitburn, where the heritors have bought lands, the rents whereof make up the Minister's stipend, and asked whether the Minister was not bound to uphold them.

No. 8. 1753, July 3. WILLIAM GLOAG *against* JOHN M'INTOSH.

LORD MINTO reported a question for advice upon printed minutes, Whether the 9th act 1669 anent the prescription of Ministers stipend in five years extended to vacant stipends? And we unanimously found it did. And I observed (as did Justice-Clerk after me) that that prescription was introduced not *in odium* but *in favorem* of those liable who are not in use to preserve them discharges for a great number of years: The same reason for which discharges of supply need not be produced after three years. I also observed that stipend was general, applicable to many sorts of wages, soldiers, servants, officers salaries, and they were called Ministers stipends only as a description to distinguish them from others, and in other acts they are more improperly called stipends of kirks, *vide* 52 act 1661, 13 and 20 acts 1672.

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SUCCESSION.

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No. 1. 1734, Feb. 5. STODDART AND RIDDELL *against* THOMSON.

THE Lords found the exheredation conveys no right to any person and does not exclude the heir at law.

No. 2. 1736, Jan. 29. DR WAUCHOPE *against* WAUCHOPE.

See Note of No. 6, *voce* MINOR.

No. 4. 1738, Feb. 16. NEAREST OF KIN OF ADAM DUNCAN, *Competing*.

I reported a bill of advocation from the Commissioners of Edinburgh at the instance of the nephews and nieces of the said Adam Duncan by his brothers and sisters who prede-