Case 95. Mr. Patrick Haldane, Advocate, on his own behalf, and Robert Dundas, Esq; his Majesty's Advocate for Scotland, on behalf of the Crown, - - - *Appellants*;

The Dean and Faculty of Advocates, and the principal Clerks of Session, - - *Respondents.*

4th Feb. 1722-3.

Appeal.—The Court of Session having refused to put Mr. Haldane, (who had obtained the king's letter of appointment, as an Ordinary Lord of Session,) upon trial for what the Court deemed want of due service, as an advocate, an appeal lay from the determination of the Court.

College of Justice.—Mr. Haldane, who had been a member of the faculty of advocates for seven years, but who by being a member of parliament, and a commissioner for the forfeited estates, during great part of that time, did not then attend in the College of Justice, was nevertheless qualified to be a Lord of Session.

BY the acts of parliament 1579, c. 93. and 1592, c. 134. it was enacted, That when the place of any Ordinary Lord of Session became vacant, the Crown was to present and nominate a man that feared God, of good literature, practice, judgment, and understanding of the laws, of good fame, having sufficient living of his own, and who could make good expedition and dispatch of matters touching the lieges of the realm, who should be first sufficiently tried and examined by the Lords of Session: and in case the person presented should not be found so qualified by them, it should be lawful to the said Lords to refuse the person presented to them; and the king's majesty was to present another so oft as he pleased, till the person presented were found qualified for using the said place.

By the 19th article of the Union, it is declared, "That hereafter none shall be named by her majesty, or her royal successors, to be Ordinary Lords of Session, but such *who have served in the college of justice as advocates, or principal clerks of session for the space of five years*; or as writers to the signet for the space of ten years: with this provision, that no writer to the signet be capable to be admitted, unless he undergo a private and public trial, on the civil law, before the faculty of advocates; and be found by them qualified for the said office two years before he be named to be a lord of the session; yet so as the qualifications made or to be made, for capacitating persons to be named ordinary lords of session, may be altered by the parliament of Great Britain."

The appellant Mr. Haldane was admitted an advocate on the 18th of January 1715; and on the demise of Lord Fountainhall, he obtained his majesty's letter, bearing date the 12th of December 1721, nominating and presenting him to be an Ordinary Lord of Session, and requiring the court effectually to try, and thereafter

after to admit and receive him to the ſaid ordinary place, accepting him as one of their number. This letter was preſented to the Lords of Seſſion, ſitting in judgment on the 26th of the ſaid month, and Mr. Haldane required to be admitted to trial in the ordinary form but the court deferred proceeding thereon till the next day.

Upon the 27th of December, the dean and faculty of advocates put in their petition, ſetting forth that Mr. Haldane, immediately after his admiſſion as an advocate, left the Court of Seſſion, and went into the country to make intereſt for his election as a member of parliament: that for the three ſubſequent ſeſſions he attended parliament conſtantly till the latter end of the year 1716, when he was appointed one of the commiſſioners of the forfeited eſtates: that from that time forward Mr. Haldane regularly attended the parliament whilſt it ſat, and during the intervals of parliament attended his office as commiſſioner of inquiry; and that office being kept at Edinburgh, he ſometimes came into the Court of Seſſion among his brethren the advocates; and on certain occaſions not exceeding three or four times in the whole, appeared at the bar: and the petitioners thence ſuggeſted, that Mr. Haldane had not ſerved as an advocate in the terms of the 19th article of the Union; and concluded, that he ought not to be found qualified to be an Ordinary Lord of Seſſion. A petition to the ſame purpoſe was preſented by the principal clerks of Seſſion.

The Court thereupon ordered Mr. Haldane to give in a ſpecial condeſcendance of his ſervice as an advocate in the College of Juſtice, ſince his admiſſion in January 1715. This he accordingly did, and inſiſted, that he had been near ſeven years an advocate in the College of Juſtice, and had practiſed as ſuch; except when his attendance in parliament called for his attendance there; and and he ſtated more particularly that he had attended locally at the bar, part of ten different Seſſions, when he had practiſed. At that time the Seſſion took up ſix months of the year, viz. the months of November, December, January, and February, as the winter Seſſion, and the months of June and July, as the ſummer Seſſion.

In anſwer to Mr. Haldane's condeſcendance, the dean and faculty of advocates preſented a memorial, wherein they obſerved: 1ſt, That whereas there were 30 Seſſion months in five years, it appeared by Mr. Haldane's own admiſſion, that he had ſerved no more than the half of that time. 2dly, That though he ſtated as *time of ſervice*, the whole Seſſion time that he remained in Scotland, yet in reality except 3 or 4 appearances, he did not ſerve at all during that ſpace, having been employed in his office of Commiſſioner of Enquiry, the office hours of which were the ſame with the ſederunt hours, of the Lords of Seſſion; and he very rarely gave himſelf the trouble to put on his gown. And 3dly, That as his accidental attendance on ſome few occaſions did not come up to the *terms* of the 19th article of Union, ſo neither did it at all anſwer the *intention* thereof; becauſe a lawyer whoſe attendance was interrupted, was not in the way of thereby gaining employment or experience in buſineſs.

On the 28th of December 1721, the Court pronounced the following interlocutor, "The Lords having conſidered the 19th "article of the treaty of Union, his royal majeſty's letter re- "quiring the Lords effectually to try, and afterwards receive "Mr. Patrick Haldane to the place of an Ordinary Lord of Seſ- "ſion, with the condeſcendances given in to them for the ſaid "Mr. Patrick Haldane, and the ſeveral repreſentations and peti- "tions by the dean and faculty of advocates, and by the ſix prin- "cipal clerks of Seſſion; they find the facts contained in the two "condeſcendances given in by the ſaid Mr. Patrick Haldane, "are not ſufficient to make it appear that he is qualified to be an "Ordinary Lord of Seſſion, according to the 19th article of the "Union."

On the 23d of January 1722, a repreſentation was exhibited to the Court of Seſſion by the appellant Robert Dundas, his majeſty's advocate for Scotland, (ſaid to be done by the king's ſpecial command,) inſiſting that they had no power to refuſe his majeſty's nomination, founded on the 19th article of the Union, and at ſame time a petition was preſented for Mr. Haldane praying to be admitted to trial in common form. The Court of Seſſion, in an addreſs to the king, laid before his majeſty the reaſons why they apprehended that they had juriſdiction, and on the 26th of January 1722, "ſuperceded to adviſe Mr. Haldane's petition until the "competency of the Court of Seſſion to judge of the qualifica- "tion required by the 19th article of the Union be determined."

This objection to the competency of the Court having been waived by a letter directed to the Court of Seſſion, from one of his majeſty's principal ſecretaries of ſtate; and anſwers having been put in to the petition of Mr. Haldane by the dean and faculty of advocates, the Court on the 8th of June 1722, "ad- "hered to the interlocutor dated 28th December laſt 1721, and "therefore find they cannot admit the petitioner to trial on his "other qualifications required by law."

Entered, 23 Oct. 1722.

The appeal was brought from "ſeveral interlocutory ſentences "of the Lords of Seſſion of the 28th of December 1721, the "26th of January following, and 8th of June 1722."

The reſpondent gave in anſwers, wherein they admit the ſeve- ral interlocutors appealed from to have been pronounced, but ſay, "That as theſe ſentences are not acts of judgment or decrees, in "queſtions of private right betwixt parties pleading in a civil court, "but acts regarding the public policy of the nation, in execu- "tion of a truſt repoſed by divers ſtatutes in the Court of Seſſion "for maintaining the regulations made for the better conſtitution "of that court; they ſubmit it to the judgment of this moſt "honourable houſe, whether the appellants have properly "brought their appeal, and whether in a caſe of this nature, "where the reſpondent had no patrimonial or pecuniary intereſt "their appearing to inform the Court of Seſſion of facts mate- "rial towards the determination of the queſtion before them, did "properly entitle the appellants to make them parties to the ap- "peal."

The

The ſeveral proceedings out of the Journals in 1702, in the cauſe between Thomas Lord Wharton, and Robert Squire; and the order upon receiving the appeal of James Greenſhields, clerk, the 25th of March 1710 (*a*), being read; it was reſolved that counſel on both ſides ſhould be heard upon this point only, whether the matter complained of by the appellants be proper to be determined by the houſe of Lords upon appeal. Journal, 6 Dec. 1722.

On this Preliminary Point (*b*).—*Argument of the Appellants.*

The appellants humbly apprehend their appeal is regularly and properly brought; for Mr. Haldane received from the crown a grant of the office of one of the judges of the Court of Seſſion, and inſiſted in the regular way before that court to have his right aſcertained, and he admitted to his office; and the reſpondents appeared in Court, and objected to his right, on pretence that the grant in his favour was hurtful to a right and privilege eſtabliſhed in them by the 19th article of the Union, and prayed judgment upon their right, and againſt the right of Mr. Haldane. And accordingly the Court of Seſſion, after conſidering the petition of the reſpondents, the anſwer for Mr. Haldane, and reply for the reſpondents, given in, in form of memorials, pronounced the interlocutor firſt recited to the hurt of the appellants' right.

His majeſty's advocate, and Mr. Haldane having ſeverally applied for a review of that judgment, the reſpondents continued to appear as parties, and put in their formal anſwers, in the ſame manner as is practiſed in every other cauſe; in which they inſiſted to have the judgment affirmed, which the court did accordingly.

From the face of the proceedings it appears, that this was a regular cauſe, wherein there were parties litigating upon their different rights and titles, and praying judgment upon them; and that very formal, though erroneous, judgments were given upon the claims, anſwers and replies of the ſeveral parties, which have been entered on record in the ſame way with other judgments: In conſequence of which that decree, extracted in due form, was allowed by the court to be taken out, and now lies before the Houſe of Lords.

The judgments complained of are given by the Court of Seſſion, upon a point of right depending on an explication of an article of the Union, the juriſdiction of which Court of Seſſion, in all caſes, is now ſubordinate to the Houſe of Lords, and conſequently their decrees liable to be reviewed upon appeal.

By the expreſs words of the claim of right as aſcertained by the convention of eſtates, at the Revolution, it is declared to be the right and privilege of the ſubjects, to proteſt for remeed of law (which is the ſame with appealing) againſt ſentences pronounced by the Lords of Seſſion without diſtinction: and the decrees complained of are ſentences of that Court, as the anſwer of the reſpondents ſets forth.

(*a*) No. 6 of this Collection.
(*b*) On this point, there is a ſeparate caſe for the appellants.

If

If the Lords of Seſſion under a ſpecious pretence of an incapacity of the perſon appointed by the crown to be a judge of that court, may refuſe ſuch perſon; and if ſuch refuſal ſhould be final and concluſive, the undoubted right of the crown to appoint ſuch officer will be diveſted out of the crown, and veſted abſolutely in the Lords of Seſſion: and the perſon who may obtain ſuch nomination from the crown, though every way qualified to execute that office, if, through a miſtaken judgment of the Lords of Seſſion, he ſhould be repreſented otherwiſe, will be deprived of a right, which by law he is juſtly entitled to, without any manner of relief (*a*).

Journal, 19 Dec. 1722.

After hearing counſel, for two ſucceſſive days, (on the 17th and 18th of December) the ſeveral proceedings out of the journal upon the petition and appeal of James Greenſhields, clerk, being read: and after long debate, a motion was made, and the queſtion was put, "That it is the opinion of this Houſe that the "matter complained of in the petition of Mr. Patrick Haldane "and Robert Dundas, Eſq; is proper to be determined by this "Houſe upon an appeal;" it was reſolved in the affirmative.

On the Merits—Heads of the Appellants' Argument.

Mr. Haldane was admitted to ſerve as an advocate near ſeven years before he was named to be an Ordinary Lord of Seſſion. The 19th article of the Union requires no local attendance at any bar, far leſs at the bar of the Court of Seſſion, (which is but one court of ſeveral that belong to the college of juſtice), but requires only ſerving as an advocate in that body of lawyers called the college of juſtice for the ſpace of five years, &c. This means that the perſon named to be an Ordinary Lord of Seſſion, ſhall for the ſpace of five years before ſuch nomination have borne the character of an advocate, without having followed any other employment inconſiſtent with that character, and diſcharged the functions of an advocate from time to time as occaſions might offer. All this Mr. Haldane has done; for he was not only admitted advocate near ſeven years before he was named to be an Ordinary Lord of Seſſion, but had practiſed as occaſion offered, actually in the ſeveral courts, except when he was called to attend his duty in parliament: and it is hoped that ſerving in parliament is not inconſiſtent with ſerving as an advocate; and conſequently that there is no reaſon for deducting the time of his ſerving in parliament from the account of the time he has ſerved as an advocate.

According to the reſpondents' explication of the article of the Union, if an advocate had practiſed with the greateſt aſſiduity for never ſo many years either before the Court of Exchequer, or the Court of Juſticiary in Scotland, or part of the time at the bar of the Houſe of Lords; and had even practiſed in the College of Juſtice, by chamber practice, in adviſing and ſettling pleadings, &c. which were to come and did come before the Court of Seſſion, but had not thought fit to attend at the particular bar of

(*a*) No caſe or argument appears for the reſpondents upon this point.

that

that court; ſuch perſon could not be named an Ordinary Lord of Seſſion, which appears to be very unreaſonable. And though it be admitted, that the reaſon of requiring this qualification of ſerving five years as an advocate before a perſon could be named an Ordinary Lord of Seſſion, was that he might acquire due knowledge in the law and forms of proceedings; yet by ſtudy and giving advice, and by having an account of the proceedings in the court ſuch knowledge might well be obtained; and therefore there is no reaſon to ſupport the reſpondents' interpretation of the article of the Union; for the law may well preſume that a perſon who has been an advocate ſo many years, and of no inconſiſtent employment, muſt have acquired, by ſuch conduct as is before mentioned, a ſufficient knowledge in the law and forms, which may be well acquired without a local attendance at the bar of the Court of Seſſion: and a calculation of months, weeks, or days of local attendance, at diſtant and remote times, (ſuch as the reſpondents ſeem to aim at), for making up five years, is neither founded in the 19th article of the Union, nor is ſuch attendance, in the nature of the thing, capable of a legal proof.

The reſpondents objected, that Mr. Haldane, before he had been five years an advocate, was appointed a commiſſioner and truſtee of the forfeited eſtates, which was inconſiſtent with his ſerving as an advocate, ſince it neceſſarily called him to attend in that court, during the hours of the ſitting of the Court of Seſſion. But no law does require a conſtant attendance for the ſpace of five years in the court-houſe where the Seſſion ſits, and no advocate does attend in that manner. By the ſame way of reaſoning, an advocate who is commiſſary of Edinburgh, or a ſheriff depute, might be objected to as being incapable of being named to be an Ordinary Lord of Seſſion, becauſe the commiſſary and ſheriff courts meet frequently at the ſame time with the Court of Seſſion. And in fact the being one of the commiſſioners of the forfeited eſtates did not hinder Mr. Haldane's attendance as occaſion required before the Court of Seſſion, but obliged him ſeveral times to attend, when otherwiſe it would not have been neceſſary, and to have the particular concern in the management and direction of a great number of cauſes before the ſeveral courts.

Heads of the Reſpondents' Argument.

The Lords of Seſſion being by the laws of the realm, and the ancient eſtabliſhed conſtitution of that court, to try the qualifications of the perſons preſented to a ſeat in it, with power to *admit* or *refuſe*, and their authority and privileges being ratified and confirmed by the very article which induces the qualification in queſtion, the enacting that qualification, *ex neceſſitate juris*, ſubjects it to the cognizance of thoſe judges, who muſt determine whether a perſon be qualified before they can admit him.

Though the words *attendance at the bar* be not found in the article, yet words of the ſame force and effect are uſed. It is impoſſible to SERVE *in a court* without attending it; and, therefore, where the law requires in expreſs words *ſervice* in the college of juſtice,

juſtice, it neceſſarily implies attendance. It is true, a perſon may be ſaid to be an advocate in the college of juſtice, that is to be a member of ſuch faculty, though he actually reſide at Weſtminſter or at Rome; but then while he reſides at Weſtminſter or at Rome he cannot be ſaid to *ſerve in the college of juſtice.*

When the words of a ſtatute have a clear, determinate, and unambiguous meaning, the legiſlature may alter them; but judges are not at liberty to explain them in contradiction to their known ſignification upon any arguments drawn from the preſumed reaſon and intention of the law; and therefore, the article having required ſervice for five years as an advocate in the college of juſtice, the judges neither could nor ought to have expounded it otherwiſe, than that attendance for five years in the court, where he was to ſerve as an advocate, was neceſſary. But if the meaning of the word *ſervice* were in itſelf doubtful, the obvious intention of the article, and the known conſtitution of the college of juſtice, would be ſufficient to determine it to that ſenſe, in which the judges have underſtood it.

Advocates are not admitted in Scotland as gentlemen are called to the bar in England, after a certain ſuppoſed attendance on the courts, whereby they are preſumed to have arrived at a reaſonable knowledge of the laws and forms of proceeding proper to their country. But in place of the municipal law of Scotland, gentlemen intending to enter advocates, apply themſelves to the ſtudy of the civil law generally in foreign univerſities; upon that law only they are tried, without the leaſt examination into a ſuppoſed knowledge of the laws of their own country, and if they are found poſſeſſed of a reaſonable degree of knowledge of that law, they are admitted advocates. Thus it happens, that an advocate at his admiſſion is not preſumed to know the leaſt title of the municipal law of Scotland, or of the forms of proceeding ſo neceſſary towards the right diſtribution of juſtice; nor has he any other method to arrive at knowledge in theſe matters, but in a cloſe attendance on the courts, where experience and obſervation may perfect his ſkill.

Taking this to be the caſe, and ſuppoſing that by the article of the Union the nation intended to ſecure to itſelf judges of knowledge and experience, what muſt be the meaning of the word *ſervice?* An advocate of five years ſtanding without attendance, knows probably leſs of the civil law, without knowing more of the municipal law and form than when he was admitted: an advocate of five years ſtanding, attending on the courts during that ſpace, is in a way of attaining a thorough knowledge of the *law* and *forms* of his country.

As the law thus expreſsly requires five years ſervice, it is a queſtion how far the judges could take upon them to overlook even occaſional abſence of days or weeks; but ſurely where the abſence is *habitual*, and the ſervice only *occaſional*, inſomuch that the appellant does not think fit to affirm that he ſerved more than 15 ſeſſion months in almoſt ſeven years, no one can imagine that the intention of the law, which requires full five years ſervice, is anſwered

anſwered by accidental attendance for the half of that time; or that the power of expounding laws entruſted with the judges is ſo arbitrary, that they can conſtrue the *half* to be equal to the *whole*.

The reſpondents never imagined, that the office of member of parliament was inconſiſtent with that of an advocate: but then they take it to be certain that attendance in the parliament at Weſtminſter is inconſiſtent with *ſervice* in the college of juſtice at Edinburgh, *during the ſpace of ſuch attendance*. The appellant agrees that he attended locally at Weſtminſter ever ſince his admiſſion, except about 15 ſeſſion months: his attendance there, then, made it *impoſſible* for him to be where he ought to have *ſerved* to qualify himſelf for the character of a judge, in the terms of law; and, conſequently, though the offices are, abſtractly ſpeaking, conſiſtent, yet ſince the *attendance* in the one has made the *ſervice* in the other impracticable, it has the ſame effect in the preſent queſtion, as if the offices were truly inconſiſtent. The ſame thing holds good as to the other office of commiſſioner of inquiry; becauſe, as has been before taken notice of, the office hours of that commiſſion were the ſame with the hours of buſineſs in the Court of Seſſion.

The reſpondents agree, that *abſentia reipublicæ cauſa*, ſaves to a man all privileges, whereof he ſtood poſſeſſed, when firſt he undertook public ſervice: and conſequently, that if the appellant had been qualified by *ſervice* as an advocate to be a judge, before he attended the parliament, he could not have loſt that qualification by his abſence. But they can by no means agree, that a man by entering into the ſervice of the public, can acquire a qualification which the law has ſaid, can no other way be come at, than by ſervice in a particular ſtation. The legiſlature thought five years ſervice as an advocate abſolutely neceſſary to furniſh a perſon with that knowledge and experience, that is requiſite for a judge: now unleſs five years ſervice as a member of the Houſe of Commons ſhall be thought as proper a mean of arriving at knowledge and experience of the laws and forms of proceeding in Scotland, as five years ſervice in the Court of Seſſion, the appellant's attendance in parliament brings him as little within the meaning, as it does within the words of the article of Union.

After hearing counſel, *It is ordered and adjudged, that the interlocutory ſentences of the 28th of December 1721, the 26th of January following, and 8th of June 1722, complained of in the ſaid appeal, be reverſed: and it is further ordered and adjudged, that the appellant Patrick Haldane be forthwith put upon trial according to law.* Judgment, 4 Feb. 1722-3.

For Appellants, *Rob. Raymond.* *Ro. Dundas.*
For Reſpondents, *Dun. Forbes.* *Sam. Mead.*

Annexed to the caſe for the reſpondents is given the following abſtract, ſaid to be taken from Mr. Haldane's condeſcendances of

of the times at which he affirmed that he ſerved in the court, from the time of his admiſſion till the date of his majeſty's letter, nominating him to be a judge.

Seſſions ſince his admiſſion, during which he might and ought to have ſerved.				During theſe he affirms he ſerved in the court of Seſſion.			And thereby admits he did not ſerve in the court of Seſſion, but attended the parliament.		
	Months.	Weeks.	Days.	Months.	Weeks.	Days.	Months.	Weeks.	Days.
In the Winter Seſſion 1714-15, from 18 January to laſt February -	1	1	2	1				1	2
Summer Seſſion 1715 - -	2						2		
Winter Seſſion following - -	4						4		
Summer Seſſion 1716 - -	2						2		
Winter Seſſion following - -	4			3	2			2	
Summer Seſſion 1717 - -	2						2		
Winter Seſſion following - -	4			1	3		2	1	
Summer Seſſion 1718 - -	2			2					
Winter Seſſion following - -	4			1			3		
Summer Seſſion 1719 - -	2			2					
Winter Seſſion following - -	4			1			3		
Summer Seſſion 1720 - -	2			1			1		
Winter Seſſion following - -	4			1			3		
Summer Seſſion 1721 - -	2						2		
Winter Seſſion following, from 1 Nov. to 12 December - - -	1	1	4	1				1	4
Seſſion time in all - -	40	2	6	15	1		25	1	6

The reſpondents ſtate, that every article of Mr. Haldane's non-ſervice in this abſtract is vouched by his own words, excepting the firſt of one week, and two days, which is ſtated by conjecture upon his own acknowledgment, that during the firſt Seſſion he was abſent for ſome few days about his election to parliament. And all the articles ſtated to his account as ſervice, depend ſingly upon the credit of his own aſſertion, the reſpondents having all along denied that he ſerved with them as an advocate, except upon ſome few occaſions.

On the 21ſt of January 1724, the preſent appellants preſented a petition to the Houſe of Lords, complaining of the further proceedings of the Court of Seſſion, after the judgment given on the appeal; but the Journals do not ſtate the particular grievance. This petition was referred to a committee to conſider and report, no report appears upon the Journals, but an act was paſſed in the

ſame

ſame Seſſion of parliament, " for explaining the law concerning " the trial and admiſſion of the Ordinary Lords of Seſſion." This act of parliament gives his majeſty the right of judging in future, with regard to the matters ſimiliar to that which was at iſſue by the preſent appeal. 10.G.1.c.19.

Kenneth Mackenzie, brother of George Mackenzie of Balmuckie, Roderick Mackenzie younger of Reidcaſtle, Lewis Mackenzie his brother, Donald Mackenzie of Kilcowie, John Chiſholm of Knockfin, and Archibald Chiſholm his brother, *Appellants;* Caſe 96

Mr. Daniel Mackilligin, and Mr. John Mackilligin, Miniſters of the Goſpel at Allneſs, - - - - - - *Reſpondents.*

6th Feb. 1722-3.

Spuilzie.—Art and Part.—Certain perſons who were preſent with the rebels, (under the command of Lord Seaforth,) when a ſpuilzie was committed, are found liable in damages, conjunctly and ſeverally, for the damages committed by the ſaid party.

The amount of the damages aſcertained by the oaths of the purſuers.

Intereſt allowed from the day, after the party of rebels had left the premiſes ſpuilzied.

Coſts and Expences.—The appellants having failed to appear, on the day appointed for hearing, the reſpondents' are heard, and the judgment affirmed with 100*l.* coſts.

IN May 1718 (*a*), the reſpondent Daniel, in his own right, and by virtue of a factory from the preſbytery of Dingwall, and the other reſpondent John, brought an action of ſpuilzie againſt the appellants, before the Court of Seſſion, for ſatisfaction of certain damages occaſioned by the appellants; and the reſpondent ſtated, that upon Monday the 10th of October 1715, the appellants with a party of armed highlandmen, under the command of the late Earl of Seaforth, came to the village of Allneſs where the reſpondents reſided, and continued there till Saturday the 15th, during which time, they took poſſeſſion of the houſes of the reſpondents, carried off a great part of the houſhold furniture, and cut and deſtroyed the reſt, carried off, or tore, and deſtroyed all the reſpondent Daniel's books, and likewiſe a library of books belonging to the preſbytery of Dingwall, and likewiſe two parochial libraries, of all which the reſpondent Daniel was the keeper, deſtroyed all their corn, and cut and deſtroyed the planting, and every thing of value that could be found belonging

(*a*) This is entirely taken from the caſe for the reſpondents; none appears for the appellants, and as they deſerted the appeal, it is probable that none was preſented for them.

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