1679. *January* 10.

THE COLLEGE OF ABERDEEN *against* The EARL OF ABOYNE.

No. 13.
Stipend not due to a Minister for terms after deposition by a Synod.

The parishioners of Coull having raised a double-poinding against the College of Aberdeen, pretending right to the vacant stipends of that parish, as vacant by the deposition of Mr. James Gordon, late Minister, by the act of Parliament applying vacant stipends to Colleges, and the Earl of Aboyne as assignee by the Minister; the heritors alleged against both, that albeit the Minister was deposed by the Synod before Whitsunday, yet he had preached thereafter, and they had paid him *bona fide* before intimation of his deposition; which the Lords sustained. It was alleged for Aboyne, that he ought to be preferred to the College for the stipend due at Whitsunday, though after deposition, being before intimation thereof to the parish, seeing the Synod suffered him to preach, and did not publish his deposition.

The Lords found, That the deposition did exauctorate the Minister, and that it was wrong for him to preach thereafter, and that neither he nor his assignee could claim any of the stipend due for Whitsunday, after the deposition.

Stair, *v.* 2. *p.* 668.

1696. *February* 26. COUPAR *against* The EARL of ROXBURGH.

No. 14.

The Lords found, That where Ministers pursue for a locality, before the commission for plantation of kirks, the patron may make an allocation, but that, in a process before the session, it was not receivable, but that the Minister might distress any to the value of their teinds, until his stipend were settled.

Fol. Dic. v. 2. *p.* 393. *Fountainhall.*

*** This case is No. 232. p. 12411. *voce* PROOF.

1697. *July* 7. JOHN MALCOLM *against* IRVING of Gribton.

No. 15.
In a question with an appriser, who had possessed only one of the rooms apprised, he was found liable only for what he possessed.

Mr John Malcolm, Minister at Holywood, pursued Irving of Gribton, for £.60 Scots, as his yearly stipend forth of these lands. Alleged, 1*mo*, That he had apprised both Over and Nether Gribtons, but had entered to possession of only one of these rooms, the others being all these years possessed by Maxwell, the common debtor, from whom he had apprised, and so could be no farther liable but conform to his intromission and possession. Answered, You must be liable for the teind of the whole, unless you condescend *quo modo* you was debarred from the one room more than the other, *viâ facti*, *vel viâ juris*. Replied, The debtor being necessitous, did uplift it, so that the appriser never attained possession of that