

ANSWERED,---If the Lords find it necessary for trying how far they are paid, the pursuer will cite them *cum processu*.

This the Lords allowed.

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[See 18th January 1695, *supra*, page 250, *thir same parties*.]

1699. *February 21.* RICHARD HOWISON *against* SIR WILLIAM SHARP of STANYHILL.

MR Richard Howison, minister at Musselburgh, charges Sir William Sharp of Stanyhill for his proportion of stipend, year 1697. He SUSPENDS,—That, for some years before, you accepted money for your stipend; which use and custom I am willing to continue; and accordingly made offer of the same. ANSWERED,—The offer was *intempestivè*, being but in July last; and his decreet of locality contains victual and not money; and, though he accepted money for a year or two, yet that cannot oblige him to do so still. REPLIED,---My offer was as timeous as your charge, which was but a few days before it; and it was too late to declare your electing of victual in July, when all the farms were sold and delivered many months before.

The question was, If the minister was bound first to require, or the heritor to offer. But at last the Lords decerned against Sir William for the price he received for his victual that year, which they considered would not be under the Sheriff's fiars.

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1699. *February 22.* SIR JOHN RIDDLE of that ilk *against* GEORGE DRUMMOND of BLAIR.

PHILIPHAUGH reported Sir John Riddle of that ilk against George Drummond of Blair. The Laird of Riddle being fined, in the late times, for his own and his lady's conventicles, in £52,000 Scots, at last a transaction was entered into, whereby he was to get a discharge of his fine, and a remission; and Blair Drummond was to use his favour and interest with the Earl of Melfort, secretary:—and for this 9000 merks was paid to Blair Drummond upon his giving them the foresaid discharge of the fine. They now raise a pursuit for restitution of that sum, with annualrent, founded on the 18th Act, 1690, and the 25th Act, 1695.

Blair ALLEGED,---He was not in the case of these acts, which concerned only donatars to fines or forfeitures, which he was not, but only employed to do them a favour in procuring so easy a composition; and that he was no further concerned than as a factor or trustee for Melfort, and might take a gratification for his pains; as was sustained to *Cambo, Lord Lyon*, against *Welsh of Scaron*, on the 28th of January 1696.

ANSWERED,---The act not only reaches donatars, but all other intromitters: