

1707. *July 5.* WILLIAM TURNER, Notary in Birse, *against* ALEXANDER ROSS of Tillisnaught.

ALEXANDER ROSS of Tillisnaught having pursued reduction of one Middleton's testament against William Turner; and the cause coming to be advised *in præsentia* upon the 19th January, 1695; and the votes happening to be equal, the Lord Rankeillor, then President, superseded to give his casting vote till he should attempt an accommodation; and that proving abortive, he reported the same to the bench, the 9th February, 1695, and in presence signed the interlocutor of the former date. Thereafter his Lordship having given in a representation upon the 26th of the said month of February, when another President sat in the chair, bearing that the decret had been put in the minute-book of the date when it was signed, and not when it was voted: The Lords allowed the same to be put up of new again of that present day's date, and it was extracted accordingly. William Turner raised reduction of this decret upon this ground of nullity, that the interlocutor which is the warrant thereof was not signed in presence immediately after voting, in the terms of the Act 18th Sess. 4th Parl. W. M. and the Lord Rankeillor could not, three weeks after, when he was not President, have his decisive vote, without the question had been put to the whole Lords, and voted *de novo*.

The Lords repelled the reason of reduction.

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1707. *July 23.* JOHN CUNINGHAME of Enterkin *against* his CURATORS.

IN the action of count and reckoning at the instance of John Cuninghame of Enterkin against his curators: The Lords found, That the pursuer's immixing himself in his own affairs, and intromitting during his minority, doth only exoner the curators for so much as they can instruct he intromitted with; and did not free them from diligence, so as to make them liable only for their actual intromissions.

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1707. *July 25.* JAMES CORBET, Merchant in Glasgow, *against* WILLIAM COCHRAN of Kilmarnock.

KILMARONNOCK and James Corbet, and other ten, being equal sharers in a ship called the Hopewell, and its cargo, to and from Guinea, Kilmarnock granted bond the 29th of October, 1701, to James Corbet, in these terms: "That where