

1694. *February 21.* MR WILLIAM STEWART *against* JAMES MACLANE, Treasurer of the Hospital of Inverness, and The LAIRD of STRACHEN, Patron.

THE Lords found Mr William Stewart had right to the stipend, having served for it by order of the commission of the General Assembly, though he was not an actual ordained minister, and so could not administer the sacraments; seeing he had a testificate of several of the presbyterian ministers of Edinburgh, bearing, it was their custom to give the stipends to such as had preached at these churches till they were otherwise provided. *Vol. I. Page 613.*

1694. *February 22.* THOMSON *against* THOMSON.

AN elder son of the first marriage pursues a second son of the second marriage, for reducing a disposition made to him. ALLEGED,—He could not insist till he was served heir. The Lords found, it being betwixt an heir general and an heir of provision, there was no need of a service. But, if the competition had fallen in between an heir and creditors, it would be otherwise. *Vol. I. Page 613.*

1694. *February 22.* LORD ANSTRUTHER *against* LORD EDWARD MURRAY and His LADY.

LORD Anstruther *against* Lord Edward Murray and his Lady, for delivering up his brother, Sir James's two children to him, as the nearest heir on the father's side. The Lords found, the daughter being past twelve, and having chosen curators, she could not be exhibited; but had it in her option to stay with her curators, or where she pleased: for, she who could now dispose of herself in marriage, could much more choose where to stay. But, as to the son, who was yet in pupillarity, they found, he ought to be delivered to Sir Philip Anstruther, his goodsire, that he might educate him where he pleased; seeing the mother was married again.—See the like, *6th February 1666, Laird Dury; and 5th February 1675, Pullarton.* *Vol. I. Page 613.*

1694. *February 22.* The TRADES of CANONGATE *against* The EARL of ROXBURGH.

IN the debate between the Trades of the Canongate and the Earl of Roxburgh, the Lords declared his house, in the Canongate, free, in the terms of the reservation contained in the tripartite contract betwixt the Earl of Roxburgh, the Town of Edinburgh, and Herriot's Hospital; and found, the Earl might employ wrights, masons, or other artificers, for any work to his own case, whether free-