

1710. *February 14.* The COLLEGE of ABERDEEN *against* The CRAFTS of ABERDEEN.

DR William Guild, professor of divinity in Aberdeen, mortifies 5000 merks, in 1655, to maintain three bursars at the college, to be chosen out of the sons of craftsmen, on a testificate, from the minister of St Nicholas church there, that they have engines fit for learning, and that none intrude themselves but such as are truly poor and necessitous : and names the deacons of trades in Aberdeen to be overseers and patrons of the mortification, and charges them to be faithful, as they shall answer one day to God. And requires these bursars, if laureate, to give an obligation, if God bless them with worldly means, to add something, more or less, to the mortification.

The crafts of Aberdeen not having three to present who were found qualified ; the principal and masters of the college pursue them to present other tradesmen's sons, to prevent and supply the vacancy.

ALLEGED,—By the strain and tenor of the mortification, they can only present tradesmen's sons born in Aberdeen ; and failing of such, they are not to seek them from other places in the shire ; but the rents of the mortified money goes up to increase the fund and stock, by which, in process of time, it may be able to maintain more boys than three : And to present others without the town, is a visible prejudice to them ; for, it lasting three or four years, their children are turning qualified in that time, and yet are debarred by these strangers : And the mortifier being a tradesman's son in Aberdeen, it is beyond doubt he meant only them, and no others.

ANSWERED,—They acknowledge the sons of tradesmen-burgesses there have the preference, but there is no clause in the gift restricting them to such, when they are not to be had with the qualifications required of poverty and pregnant engines. And it is known the trades have misapplied the funds. And such inversions are, by the Act of Parliament, declared pursuable *actione populari*, at the instance of any inhabitant or burgess.

The Lords found it consonant to the will of the mortifier, as expressed in the gift, That, though the Aberdeen tradesmen's sons were preferred *primo loco*, yet, *iis deficientibus*, the patrons behoved to present other qualified boys in their room.

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1710. *February 14.* JAMES LAURIE *against* ALEXANDER CUNNINGHAM of POLQUHARN, and HEW HAY.

ALEXANDER Cunningham of Polquharn, and Hew Hay, in Ayr, being assignees by Crawford of Kerse, to L.168, owing to him by one of his tenants ; Mr James Laurie, minister at Dalrymple, competes, That, he being provided, by his decret of locality, to so much money and victual out of the barony of Kerse, he might take this tenant's rent in part of his stipend *pro tanto*.

ALLEGED,—His stipend being localled upon the teinds, he can pretend no further interest than to the fifth part of this tenant's rent, stipends being only payable out of the teinds.