

1754. *February 16.* SINCLAIR of ULBSTER *against* SINCLAIR of RATHAR.

[Elch. No. 16, *Superior and Vassal.*]

IN this case the Lords found, that an apparent heir, upon a proof of his apparentcy and possession, without any service, general or special, might pursue a declarator to have it found and declared that the superior could not, without his consent, split the superiority, and that such division was, with respect to him, null and void, so that he was obliged to acknowledge only one superior; because the Lords thought that such declarator was in some sort necessary for the entry of the vassal, in order that he might know of whom to take his entry: and it was compared to the case of an apparent heir reducing a deed on death-bed, or any other deed that might bar his entry or render it of no effect.

---

1754. *February 27.* ——— *against* MINISTER of ARESKINE.

THE patron of this parish pursued a modification and locality of the stipend of this parish, which was a parsonage, and the minister in possession of the greatest part of the benefice.

The Lord President declared his opinion, that if it had not been a parsonage, the patron would have had no title to pursue a modification and locality, because in that case he would have had right to the tithes by the act 1690, and might have laid hold of them and kept them, leaving the minister to get a stipend modified for himself, so that he had no interest to pursue a modification; whereas by the act 1693, if the benefice is a parsonage, the minister is entitled to retain the tithes till he get a modified stipend, and therefore the patron has an interest to pursue for such modified stipend, that he may have the remainder of the tithes to himself; but he said he did not think that the minister, as parson, being in possession of the benefice was any reason for modifying to him a greater stipend than ordinary.

Lord Drummore was of opinion that the patron of any parish was entitled to pursue a process of modification, that he might know what belonged to him after deduction of the minister's stipend.

---

1754. *March 6.* STIRLINGSHIRE ELECTION,—ARCHIBALD CAMPBELL.

[*Fac. Coll.* No. 105.]

THE question here was about the possession of a feu-superiority, of which neither the feu-duty nor any casualty of the holding had ever been uplifted by the present superior or his authors.

The Lords found, that the possession of a superiority was not properly by