

No 6. found, that a schoolmaster in a royal burgh is not removeable arbitrarily, at the pleasure of the magistrates, though his act of admission did not bear during life; Magistrates of Montrose against Strahan, 1710, *voce* PUBLIC OFFICER; Fowlis, 10th Nov. 1747, No 2. p. 6581. The offices of precentor and session-clerk are public offices; they are part of the ecclesiastical polity, and the office of Session-clerk is likewise of importance to the community, as furnishing the record of marriage and baptisms.

Answered for the defenders; A commission for holding an office, whether public or private, must, like every other mandate, be considered as revocable at pleasure, unless the contrary be expressed. In some cases, public offices are held *ad vitam aut culpam*, either from the long usage, or the express terms of their commission. Many others are held during pleasure only; but the offices of session-clerk and precentor are not to be considered as public offices. That of schoolmaster is established by statute, and a fund appointed for the support of those who hold it; session-clerks and precentors are neither established nor provided for by law. A kirk session may have a clerk or not as they incline; and he is merely the private servant of the session.

THE COURT found, 'That the pursuer held the offices of precentor and session-clerk of Kirkwall during pleasure, and therefore assoilzied the defenders 'from the reduction.' See PUBLIC OFFICER.

Lord Ordinary, *Braxfield*. Act, *Stewart*. Alt. *Honeyman*. Clerk, *Menzies*.
Fol. Dic. v. 3. p. 372. Fac. Col. No 52. p. 93.

1783. February 18.

The KIRK SESSION of Dumfries *against* The INCORPORATION of SQUAREMEN there.

No 7. THE Incorporation of Squaremen in the burgh of Dumfries having been in use, from a very remote period, to let out mort-cloths for hire, the kirk session of the parish, in the year 1781, instituted an action for having it found, that they had the sole and exclusive right of doing so. In support of this action they referred to the following decisions, Turnbull and Kirk Session of Kippan *contra* McClaws, No 3. p. 8013.; and Kirk Session of Killwinning *contra* Trades, *ib. cit.*

Observed on the Bench; The right which the kirk sessions in Scotland enjoy, of letting out mort-cloths for hire, when followed with immemorial possession, has been found to establish an exclusive right to the emoluments arising from this sort of traffic. Here, however, the defenders having been, beyond the years of prescription, in the practice of letting out mort-cloths, there is no foundation for the present action.

THE LORDS 'assoilzied the defenders, in respect of the long possession had 'by them.'

Lord Reporter, *Stonfield*. Act, *Crosbie*. Alt. *Elphinston*. Clerk, *Robertson*.
C. Fol. Dic. v. 3. p. 373. Fac. Col. No 94. p. 146.

See APPENDIX.