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 SPUILZIE.
 

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 No. 1. 1737, Nov. 9. CAMPBELL *against* CAMPBELL.

THE Lords adhered to the Ordinary's interlocutor finding that the pursuer had his oath *in litem* reserving modification; but some of the Lords doubted whether there should not be a proof of the quantities; at least if the defender should not be allowed a proof to be a meith for the Lords' modification. Wherefore we ordered the pursuer to give in a concordance before deponing, reserving to the Lords to consider whether they would allow the defender such a proof or not. *Sed vide* Lord Colvil's Decisions 20th March 1573, fol. 4. b. fol. 5. a, and fol. 40. a and b, and fol. 46. a, and Feb. 1581, fol. 60. b; and Jan. 1581, fol. 76. b, and fol. 78. b, July 1583, fol. 98. b; *Item* fol. 28. b; Hadd. 28th Jan. 1623.

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 STIPEND.
 

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 No. 1. 1738, July 5. MARSHALL *against* THE TOWN, &c. of KIRKALDY.

THE Lords found that this pursuer by his original institution being only called as a helper to the first Minister, and having a stipend by voluntary contributions or contracts cannot pursue a modification of a constant stipend.

 No. 2. 1740, July 22. MR JAMES M'GARROCH *against* SCOTT.

M'GARROCH upon a decret of locality charged Scott a tenant for payment of his stipend, who presented a bill of suspension, which the Ordinary passed,—and the question was, Whether it could be upon caution, or if there must be consignation? The question turned upon the act 1669, Whether this was a charge on a special decret? It is true that I have always thought that suspension should be upon consignation, but upon consideration of the act, and comparing that with the act 1690 and our law books, particularly Stair, Title EXECUTORIALS, I thought that this was no special decret as to persons not named nor called in it, and I thought that the letters upon such decret against all others than those named in it were general letters.—18th June.

July 17,—The question of a suspension of charge against a tenant on a decret of locality, Whether it must be only on consignation? and we seemed to be of opinion on the construction of the act of Parliament to alter the former interlocutor of 18th June. But we were diffculted by the alleged uniform practice, and therefore delayed till that be enquired into; and upon report by the clerk of the bills, the 22d, which was not very positive of an uniform practice, the Lords adhered, finding that the money must be consigned; but I am told it came to the President's casting vote, for I was in the Outer-House; and on the 24th refused to receive a third petition.