

Patron at the time, and it was no dilapidation but a necessary act of administration to which he could have been compelled upon the statute. But we repelled the defence, and reduced, *me tantum renit.* 16th June, Refused a reclaiming bill without answers, 8 to 4.

No. 3. 1748, Nov. 19. MR CHARLES COCHRAN, PATRON OF THE PARISH OF CULROSS.

MR COCHRAN presented a Minister to the parish, but the Presbytery is going to settle another, and has appointed Thursday for the ordination; and the Patron presented a bill of advocacy, praying also for an injunction to the Presbytery to stop proceeding in the ordination of the other Minister, and Kilkerran, Ordinary, reported the bill to us whether he should appoint it to be answered. But we unanimously refused the bill as not competent.

No. 4. 1751, June 26. SAME PARTIES.

MR COCHRAN in February 1747 presented Trotter a probationer to be second Minister of Culross, which became vacant in November 1746, and produced a late charter from the Crown of the patronage on his own and Mr John Erskine's resignation, but the town of Culross claim the right of electing the second Minister by delegates chosen by them, as the first person who was ordained second minister of that Church in 1648 was elected, as appeared from the Presbytery books. The Presbytery moderated a call at large, which fell on Mr Fairnie, which was carried through the several Churches and was approved by them, but Fairnie refused to accept, and thereupon a new call was moderated and Mr Stoddart chosen. In November 1747 Mr Cochran pursued declarator of his right, and was opposed both by the Crown and the town of Culross. In November 1748 Stoddart was ordained Minister of the Church, and thereafter in the process with the Crown Mr Cochran condescended on a charter in the records to his authors in 1683, and at last in January 1739 obtained a declarator of his right; and now Mr Cochran pursues the heritors for the vacant stipends; and the defenders did not oppose as to bygones before Stoddart's settlement, but as to stipends after that time said there was no vacancy. The case was reported by Lord Justice-Clerk, and I was of opinion that Mr Cochran's right not being clothed with possession, and being disputed both by the Crown and the town, the Presbytery was not obliged to wait more than two years till he cleared his right, and therefore was for sustaining the defence. But the Lords thought that the opposition to Mr Cochran's right was affected and spirited up by the Presbytery, and therefore found that the Patron had right to the benefice, and preferred him to the Minister, *me renit.* Justice-Clerk, and Leven did not vote. *Pro* were Minto, Drummorie, Strichen, Kilkerran, Murkle, Shewalton, Woodhall.

No. 5. 1752, Feb. 27. URQUHART *against* OFFICERS OF STATE.

MELDRUM as purchaser at the sale before us of the estate of Cromarty belonging to Sir George M'Kenzie, son of Sir Kenneth, produced a charter from the Crown in 1598 in favour of Sir William Keith, erecting 18 or 19 kirks that had been common kirks of the