

confidants, had made excuseable in him to inform his nearest friend of her insatiable appetite, yet he must at the same time have resolved to separate from her, because they could not consistently with the honour of either of them thereafter live together; and whenever matters came to that pass, the Court could not refuse a separation, and he was to aliment her so long as she was his wife; at the same time I saw no necessity for such vindication nor evidence of the truth of what he reproached her with, and far less saw I necessity of propaling that scandal to so many, or maintaining it in courts of justice. Kilkerran also changed his opinion, and upon the question it carried alter the last interlocutor, and to refuse the bill of advocation *simpliciter*. *Pro* were Minto, Drummore, Kilkerran, Justice-Clerk, Murkle, Shewalton, *et me*. *Con.* were Dun, Haining, and President, but Leven was *non liquet*, and Milton in the Outer-House.

No. 36. and 37. 1750, Feb. 13, 1751, Feb. 13. PRESBYTERY OF PERTH *against* THE MAGISTRATES,—and PRESBYTERY OF LINLITHGOW *against* THE MAGISTRATES.

THIS day we adhered to our interlocutor at the instance of Robert M'Intosh as factor for the Presbytery of Perth against the Town for L.10 yearly since 1740 out of the benefice of the third Minister of Perth, being all that time vacant, whereby we sustained the Town's defence that there was no vacancy, that third Minister being now suppressed by the Town. Our first interlocutor was 21st December last, and 13th February we altered an interlocutor we gave against the Town of Linlithgow finding them liable, and found there was no erection, and therefore no vacant stipend.

* * The case No. 38. ought to have been dated 1733. There are particulars in the Notes.

HYPOTHEC.

No. 1. 1735, Feb. 20. GARDEN of Troup *against* DR GREGORY.

THE Lords found that the cautioners had no title to plead the hypothec.—(23d January 1735).

The Lords adhered notwithstanding the rent was paid by the cautioner, in respect the hypothec was not assigned.—(20th February 1735.)

No. 2. 1735, Dec. 4. CREDITORS of M'LELLAN *against* BURNS, &c.

THE Lords preferred Laurie, and found the journeymen neither had hypothec nor action *de in rem verso*.

No. 3. 1736, Feb. 17. NIEL M'VICAR *against* LADY KIRNAN.

THE Lords altered the interlocutor and sustained Mr M'Vicar's hypothec in the writs against the Lady.—(10th July 1735.)