

1709. February 5.

THE MAGISTRATES OF LANARK *against* THE EARL OF MURRAY.

No 3.

The brocard
patronus mei
patroni est
mibi patronus,
does not ap-
ply where
another pa-
tron is
known.

IN the competition for the vacant stipends of the parish of Longbride, be-
twixt the Town of Lanark, as having a gift thereof from the Treasury, and the
Earl of Murray, who, in consequence of his being patron of the church of
Alves, whereof the parson was patron of Longbride, pretended to the right of
patronage of Longbride, according to that rule of the canon law, *patronus pa-*
troni mei, est patronus meus; the same way as by our custom, *vassalus vassali*
meh, est vassalus meus; because, as Craig observes, when the immediate vassal
fails, the mediate vassal ascends up in his place, and holds by the same tenor
of the paramount superior:—THE LORDS, without regard to the brocard, found
that the Earl cannot pretend to the right of application of the vacant stipends
of Longbride, unless he instruct that he hath particular right of patronage of
that church; albeit it was alleged for the Earl, that probably the curacy of
Longbride, (which is a pendicle of the parsonage of Alves) was doted out of
the rents of the greater benefice; and thereby the Earl, as patron of the latter,
was entitled to the patronage of the former, by the rule *patronem faciunt dos,*
&c. and the patron of the first minister of Haddington, No 6. p. 9901. was
found to be patron of the second, though provided by the town.

Fol. Dic. v. 2. p. 48. Forbes, p. 318.

* * * Fountainhall reports this case:

1709. February 8.—THE Magistrates of Lanark having got a gift from King
William, of 2000 merks, out of the first and readiest of the vacant stipends of
the kirk of Longbride, for mending and repairing their bridge, they pursue
Innes of Cockston, and the other heritors of that parish for payment. They
founded on partial payments by repairing the kirk and manse, and the 20 merks
paid to the ministers sent there by the presbytery to preach; but after deduc-
tion and allowance of these, there was still as much in their hands as would pay
the sum given to the town of Lanark; and a decret being craved against them,
compearance is made for the Earl of Murray, for whom it was *alleged*, That he,
as patron of Longbride, had by act of Parliament the administration and disposal
of its vacant stipends to pious uses, and so the gift from the King and his Exchequer
was null, and he was ready to make application of it to uses nearer home than
Lanark bridge; and the way he qualified his being patron was, that Longbride
was but a pendicle of the kirk of Alves, and he being patron of Alves, the
ecclesia matrix, he, by consequence, was also patron of the kirk of Longbride,
which was only disjoined and dismembered from it for the conveniency of the
people, as a chapel of Ease.—*Answered, Esto* he were patron of Alves, the
mother church, and that Longbride were but one of its daughters, yet it never
makes him patron of Longbride, because, by presentations produced, it appears
the parson of Alves was patron of Longbride, who put him in as vicar, even as
bishops did in their mensal kirks; so that this patronage by the abolition of pre-

lacy devolved to the Crown, and did not accresce to the Earl of Murray; and the brocard *patronus mei patroni est mihi patronus*, does not hold where another patron is known.—THE LORDS found the Earl was not patron, and so had no right to the vacant stipend of Longbride. Sir George M'Kenzie, in his Latin pleadings, p. 131. shows, that the Earl of Haddington, as patron of the first minister of that town, had likewise the right of presenting the second minister, though founded and paid by the town, as being only an accessory consequence depending upon the first. See it from Stair's decisions, 18th Nov. 1680. No 6. p. 9901.

No 8.

Fountainhall, v. 2. p. 489.

1735. February 15. MONCRIFE against MAXTON.

No 9.

IF a PRESBYTERY refuse a presentation duly tendered to them, in favour of a qualified minister, against which presentation or presentee there is no legal objection, and admit another person to be minister, the patron has right to retain the stipend, as in the case of a vacancy. See APPENDIX.

Fol. Dic. v. 2. p. 47.

1748. November 19. COCHRAN, Petitioner.

No 10.

THE presbytery of Dunfermline having refused to receive the patron's presentee, and proceeded to appoint a day for the ordination of another; Charles Cochran of Culross, the patron, presented a bill of advocacy of the settlement, which the LORDS unanimously "refused as incompetent."

Fol. Dic. v. 4. p. 49. Kilkerran, (PATRON.) No 2. p. 374.

1749. January 21. COCHRAN against The OFFICERS of STATE, and Others.

No 11.

IT is an established point, that an erection or settlement of a second minister accresces to the patronage of the first charge; and accordingly, it was here found, that Charles Cochran of Culross, the pursuer, being patron of the parish of Culross, was entitled to present to the office of second minister, which had been erected upon the contribution of the heritors.

But an objection having been made to Mr Cochran's charter of the patronage, that it had not been granted with consent of the incumbent for the time, without which grants of patronage from the Crown are declared void by act 172d, (176) Parl. 1593, the act was found to be in disuetude, or rather that it was but a temporary act, to continue during the life of the King then reigning.

Fol. Dic. v. 4. p. 50. and 54. Kilkerran, (PATRON.) No 3. p. 374.