SECT. II.

Vacant Stipend.

1681. *February* 23.　　Sir Robert Hepburn *against* ——.

In a competition for a vacant stipend, between Sir Robert Hepburn, as patron of the kirk of ——, and —— as having a gift from the Council;—it was *alleged* for the patron, That the stipend in question being due for years after the seven years applied to Universities by act of Parliament, doth belong to the patron, who *de jure communi*, and by our unquestionable consuetude, before the patronages were taken away by the rescinded Parliament 1649, and after the right of patronages were restored by the act of Parliament 1661, the patron had the unquestionable right to the vacant benefice or stipend, except only the seven years applied to Universities by the 20th act of Parliament 1672, which ended *anno* 1678.—It was *answered*, That by an act of Secret Council there is a prorogation of that act for other seven years.—It was *replied* for the patron, That nothing but an act of Parliament could take away, in whole, or in part, the private right of patrons.

The Lords preferred the patron.

Stair, v. 2. p. 866.

1694. *February* 20.　　Donaldson *against* Brown.

The patron's gift of the vacant stipend to the last minister's widow and children found a pious use, in terms of the act of Parliament, provided they dwelt within the parish at the time.

Fol. Dic. v. 2. p. 48. Fountainhall.

⁎⁎ This case is No 14. p. 471. *voce* Annat.

1695. *December* 6.　　Lord William Douglas *against* Heritors of Mannour

In a double poinding about a vacant stipend, where the patron had destinated the same for building a bridge in the parish ; and on the other hand, the heritors and presbytery had allocated it for repairing the church and manse, it was found, That since the patron was never interpelled by the heritors and presbytery to apply, but that he had made the first application himself, and that to an