

rum, and if it were so, *sibi imputet*, for no reasonable man would part with the instructions of a debt, upon such a lame act. No 426.

THE LORDS found the acts of Council produced were not sufficient to instruct a debt against the Town.

Fol. Dic. v. 2. p. 249. Dalrymple, No 121. p. 168.

1724. December 2.

MR JAMES PHILP, and the Moderator and Presbytery of Ellon, *against* The HERITORS of the Parish of Cruden.

In the process betwixt the above parties, about settling Mr Philp schoolmaster of Cruden, observed the 7th February last, *vocæ* PUBLIC OFFICER, the defenders offered to disprove the extract of the proceedings of the presbytery, with respect to due intimation having been made, by their order, to the heritors; against which the pursuers *objected*, That presbyteries, being Courts of Record, extracts from their records ought to be sustained probative of their proceedings, as well as other Courts of Judicature.

It was *answered* for the defenders, That whether presbyteries were Courts of Record or not, it was certain that the alleged proceedings, in any inferior Court, may be disproven *per membra curiæ*, as the extracts from thence may be by the original minutes; or otherwise too great a power would be given to clerks, of framing wrong minutes, and giving wrong extracts.

THE LORDS found, that the defenders might disprove the minutes of presbytery, produced for the pursuers, by proving, that the minutes produced were disconform to the records, and that the facts therein mentioned were not so done; and remitted to the Ordinary to grant commission to the Judge Ordinary of the bounds to inspect the records, and receive the oaths of the clerk and other members of the Court.

Reporter, Lord Pencaitland.

Act. Jo. Dundas.

Alt. Ja. Graham, sen.

Clerk, Hall.

Fol. Dic. v. 4. p. 165. Edgar, p. 124.

1755. March 1. HELEN MILLER *against* GEORGE BEARD.

THE pursuer *alleged*, That the defender was the father of a natural child brought forth by her, and pursued him for the expenses of the child-birth, and for the aliment of the child.

In proof of the fact, the pursuer produced the minutes of the kirk-session, bearing, that the defender being interrogated, If he was guilty with the said Helen Miller, and father of her child? acknowledged he was; and the oaths

No 428.
The minute of a Kirk-session, bearing that the defender had acknowledged himself the father of a child.