

supposed because all Bishopricks Priories and Abbacies then in Scotland were
 royal Foundations made by that King and his Predecessors: whereby they had
 Power to reserve the Patronage to themselves, and to erect small Benefices. 2^o
 All the Lands Churches and Tithes, belonged to the King during Paganism and
 whatever the Pope attained or got Mastery of after Christianity got footing did
 flow from the King, qualified with such Conditions and Reservations as his
 Majesty thought fit. Again, the Patronage of all Bishopricks belonged
 to the King: the Chapter used indeed the Formality of Election, but could
 not pitch upon any save him the King recommended, if an actual Mi-
 nister of the Church. The Election gave Right to the Spirituality of the
 Benefice: but the Temporality was only conferr'd by a Charter from the
 Sovereign after Consecration; for which the Bishop consecrate behoved to
 do Homage, and swear the oath of Allegiance before Intromission Act. 1.
 Par. 22. J. 6. Patronage in capis suis is presumed to be Laical and
 not Ecclesiastical: because say the Doctors we are not born Clergy men but
 Laicks, and are still presumed to be such, while the Ecclesiastical Character is
 not instructed Fr. de Roze ad lit. X. de jure patron. proleg. cap. 6.
 The Rights and Privileges belonging to Patrons were introduced by Canons
 of the Church, Rescripts of Popes, Constitutions of Princes, and Acts of
 Parliament, not all at once but by Degrees Fr. de Roze ibid. cap. 2. The Em-
 peror Zeno permitted the Founders or Endowers of Benefices to insert any
 Laws or Statutes, in the Foundation Charters they pleased l. 15. C. de ff. Ec-
 -cles. for Administration of the Rents according to the Rule of Law, quilibet
 in sua lege dicere potest quam velit l. 2. s. 1. ff. de practis dotal. The
 Patron had a splendid Seat and Burialplace in the Church, a Right to pre-
 cedency among the Clergy in solemn Processions, Visitation, and the like
 his Name and Arms were engraven upon the Entry or Walls of the
 Church, and upon the Bells, Chalices, and other Utensiles; and himself
 was particularly minded in the publick Prayers of the Church. Fr. de
 Roze de jure hono. in Eccles. l. 2. cap. 3. Part. on Patronage Sect. 2.
 He had the disposal and Application of the Fruits of the Benefice
 while vacant C. in quibusdam re. extr. de parric. Fr. de Roze ad lit. X. de jure
 patron. proleg. cap. 24. But Bishops had no Rights to the vacant Stipends
 that Ministers had got mortgaged to them by the Bishops or had been impos-
 sion of 8 Feb. 1676 College of Aberdeen contra Bishop of Ross Heers'd
 by Arleton. For the Bishops did not as Patrons, but as Diocessans, plant the
 menial Churches. The Patron had a Right to be alimented by the Church,
 if reduced to Poverty C. nobis 25 extr. de jure patron. C. quicumque 16. qu.
 7. Traven de S. Eccles. ministr. et benef. lib. 5. cap. 4. Bengaus de benef. ad

ad verb. cum suo redditu cap. 4. p. 1. s. 5. n. 9. But this point hath
 never been sub judice Hairs lib. 2. tit. 8. s. 35. Patrons had also some indi-
 -rect Interest in their Benefices, where the Ministers had modified Stipends
 within the worth of the Benefices. From whom the Patron at his prefer-
 -ring them used to procure Facts in a confident Person's Name to his own
 Behoof, for Payment of the accustomed Stipend; whereby he carried the over-
 -plus Profit of the Benefice, and the Patronage resolved in a Title of the
 Tithes, not quarrelled as a Simoniack Faction or Dilapidation Act. 1.
 Par. 21. J. 6. Act. 9. Par. 1. Sep. 1. Ch. 2. Stair ibid. No Benefice person
 could without Consent of his Patron, do any thing material, such as
 the granting of Fees, selling of Facts for more than three Years. But the
 Patron consenting thereto was not liable in Warrandice.
 The main Privilege that Patrons enjoyed, was a Power to present with-
 -in a determin'd Time an Incumbent to the vacant Benefice; to whom
 if a fit Person, the Church behoved to give Collation and Institution. C.
 decernimus 16. qu. 7. C. illud X. de jure patron. C. ex insinuatione eod.
 Presentation to a Benefice, before it was void, was not allowed C. ult. X. de
 consensu prebend. D' Epistles de Benef. Eccles. tom. 4. tit. 3. n. 27. Fr. de
 Roze ibid. cap. 23. that there might be no votum captandae mortis alie-
 -ne; that Men might not be tempted to wish for the Deaths of others;
 and that providing for the most worthy in a Vacancy might not be
 hindered. The presentation should mention also modum vacandi arg. C.
 presbyteri dist. 24. M'kenzie observ. on Act. 1. Par. 22. J. 6. Therefore
 a Gift of a Benefice in these Terms when the same shall happen to vacate,
 is ipso jure null Hope map. pract. Nor was a Patron found to have Pow-
 -er to grant a presentation to one and to another after his Decease 24
 Jan. 1677 Stewart contra Nairn. For if the Patron ^{might} substitute
 one person to the Incumbent he could substitute 100, and so exclude all
 Successors. But a presentation to two Persons jointly, and to the Survivor,
 would be sustain'd. By the 2^d Rule of the Roman Chancellery tan-
 -tum temporis post vacationem beneficii effluere debet quantum suf-
 -fuit illam ad notitiam summi pontificis pervenire. Which Rule the
 Lords sustain for the Reason of it, without Regard to the Lawgiver's by
 finding a provision to the Abbey of Kelwinnig, in Favour of Mr
 William Melvil Commondator of Fingland null; for that his Predeces-
 -sor died at 5 of the Clock in the Afternoon of that Day on which the
 Gift was dated, and it was not probable the King would know so soon of the
 Vacancy Spotswood Pract. tit. Kirkmen and Kirkpatrimony. However
 it is an ordinary thing in the Court of Rome, to issue forth several
 Bulls