

The Canon Law, the Right of Patronage goes to Heirs, but as a jus individuum it does not divide among them: for if there be several Heirs, they are all Patrons in solidum C. perlatum i. ceter. de pure patron. And present jointly, Clement. 2. cod Duorum de s. Ecles. mun. et benef. lib. 5. cap. 4. Toes ad tit. X. de pure patron. n. 10. By the Law of Scotland, if Heirs portioners succeed, Rights individual as Patronage fall to the eldest, bid. Infra pag. 1455-1456. But by the Law of England, The Patron's Presentation to a Benefice affords jus ad rem, and Action for wrongous Intrusion, to the Party preferred, but jus in re comes only by Collation and Institution, which must be performed by Church men McKenzie Observ. on act 7. Par. i. §. 6. Yet Institution being frequently omitted in Scotland, Collation sufficeth without Institution 12 Decem- ber 1676 College of Glasgow contra Heirs of Jedburgh. An In- cumbent cannot be removed from the Benefice, tho the Patron's Right upon whose Presentation he was admitted, come to be afterwards redun- ded; if the Patron was in Possession C. consultationibus 19. X. de pure patron Reg. majest. lib. 3. cap. 33. n. 5. Now he is said to be in Possession of a Right of Patronage, who hath but once bona fide presented Mascard de probat. concl. 95 P. Carpzov. jurisprud. consist. lib. i. tit. 21. def. 2. n. 9. The Canonists hold that a Patron may be excluded from his Right ei- ther for a Time, or simpliciter. The grounds for a Temporary Exclusion of a Right of Patronage, or rather a Suspension of the Effect of it, are, 1o An Ecclesiastical Patron by presenting an insufficient Person loses his Right for that Bout Fr. de Roze ad tit. X. de pure patron c. 38. But this does not obtain in Scotland. 2o Excommunication of any Patron or his falling into Heresie, makes his Right to cease or sleep while he continues in that State. Patronage is simpliciter or totally excluded by Prescription of 40 years Fr. de Roze ibid. cap. 16. McKenzie Observ. on Act 61. Par. ii. §. 6. The Exception of decennalis et triennalis possessione, is not relevant a- gainst the Patron: in respect of the Clause in the Rule of Chancellery, in modo per eos ad quos presentatio pertinet presentati fuerint. The Alterations in the matter of patronage after the Church of Scotland was reformed from popery, are set forth in the proper places where the protestant Clergy Episcopal and presbyterian are settled.

According to the Canon Law, the Right of Patronage goes to Heirs, but as a jus individuum it does not divide among them: for if there be several Heirs, they are all Patrons in solidum C. perlatum i. ceter. de pure patron. And present jointly, Clement. 2. cod Duorum de s. Ecles. mun. et benef. lib. 5. cap. 4. Toes ad tit. X. de pure patron. n. 10. By the Law of Scotland, if Heirs portioners succeed, Rights individual as Patronage fall to the eldest, bid. Infra pag. 1455-1456. But by the Law of England, The Patron's Presentation to a Benefice affords jus ad rem, and Action for wrongous Intrusion, to the Party preferred, but jus in re comes only by Collation and Institution, which must be performed by Church men McKenzie Observ. on act 7. Par. i. §. 6. Yet Institution being frequently omitted in Scotland, Collation sufficeth without Institution 12 Decem- ber 1676 College of Glasgow contra Heirs of Jedburgh. An In- cumbent cannot be removed from the Benefice, tho the Patron's Right upon whose Presentation he was admitted, come to be afterwards redun- ded; if the Patron was in Possession C. consultationibus 19. X. de pure patron Reg. majest. lib. 3. cap. 33. n. 5. Now he is said to be in Possession of a Right of Patronage, who hath but once bona fide presented Mascard de probat. concl. 95 P. Carpzov. jurisprud. consist. lib. i. tit. 21. def. 2. n. 9. The Canonists hold that a Patron may be excluded from his Right ei- ther for a Time, or simpliciter. The grounds for a Temporary Exclusion of a Right of Patronage, or rather a Suspension of the Effect of it, are, 1o An Ecclesiastical Patron by presenting an insufficient Person loses his Right for that Bout Fr. de Roze ad tit. X. de pure patron c. 38. But this does not obtain in Scotland. 2o Excommunication of any Patron or his falling into Heresie, makes his Right to cease or sleep while he continues in that State. Patronage is simpliciter or totally excluded by Prescription of 40 years Fr. de Roze ibid. cap. 16. McKenzie Observ. on Act 61. Par. ii. §. 6. The Exception of decennalis et triennalis possessione, is not relevant a- gainst the Patron: in respect of the Clause in the Rule of Chancellery, in modo per eos ad quos presentatio pertinet presentati fuerint. The Alterations in the matter of patronage after the Church of Scotland was reformed from popery, are set forth in the proper places where the protestant Clergy Episcopal and presbyterian are settled.

The Dignities in the Popish Church of Scotland, were Benefices which gave Preeminence in the Shew to such as held them, above meer Priests and Canons. The Dignitaries were a Primate or Metro- politan, Archbishop, Bishops, their Subalterns, and Provosts. The Metro- politan and Archbishop presided over whole Provinces, differing only in this, that the former was the more honourable Archbishop, having his Seat in a Metropolitan City. We had once in Scotland three Kinds of Bishops viz. Bishops Elect, Bishops

Bishops Postulate, and Bishops Consecrate. A Bishop Elect was he who was chosen by the Chapter, and so only a Bishop nomine, and not in re. A Bishop, pos- tulate, was one who being incapable to be elected by the Chapter, by Reason of some ca- nonical Defect, was upon their Petition and Recommendation to the Metropolitan created a Bishop. But these Bishops Postulate were not long in Scotland. It would seem that Bishops Elect and Bishops Postulate used to set lofty Facks of Church-Lords; since they are discharged to do so Act 77. Par. 9. 2. M. And Bishops Elect over- cent ea quae sunt jurisdictionis, sed non ea quae sunt ordinis §. Thols. Syntag. jur. part. i. lib. 15. cap. 12. n. 23. McKenzie Observ. on act 77. Par. 9. 2. M. A Bishop Consecrate, is in re ordained and invested in the Office, by receiving the Symbols or Badges thereof accompanied with proper Prayers. The Symbols of the Episcopal Charge are the Bible, the Ring, the Mitre and Pastoral Staff or Crozier. The Ring was given to the Bishop (quam sponsor Ecclesiae signifi- ca) that he was wedded to the Church. The Mitre is a forked or two horned Cap or Bonnet which Bishops wore upon their Head. This implied this Know- ledge of both the old and new Testaments to be the Ornaments of his Head, and that he should be feared and had in Reverence of the People. The Pas- toral Staff an Ensign of Honour carried always before him, was a Token of that Support which he ought to contribute to the Government; or rather because now he was become a Shepherd of the Flock of Christ. The Staff is crooked, to intimate how the stubborn ought to be drawn into the Bosom of the Church, and gently reduced to their Duty. Bishops had within their own Diocese not only a spiritual jurisdiction, but also a civil one which they exercised by their Officials, and Bailiffs, called in the civil Law Advocati et Defensores Ecclesiae Cod. Theod. de episc. et cler. tit. 2. l. 38. In France the Vicidams and in England the Stewards. Each had his own Official or Deputy to judge in Consistorial Matters of Fines, Minors, Orphans and poor Widows, and to confirm Testaments; in the Room of whom 2. Mary appointed Comissarys. The Bishop's Parish Church was termed a Cathedral from the Chair that stood there for him. In every Cathedral there were some Collegiate, or Prebendarys, with a Dean over them who made up the Bishop's Chapter or Council, called Capitulum in the Canon Law as being the inferior or little Head of the Diocse. The pre- bend's sat on Benches in the Quire for performing divine service and served their Name either from a praebendo auxilium et consilium Episcopo vel Decano which was the Use they were designed for; or from praebenda which signifies that portion every Canon received for his Maintenance out of the Church Patrimony, for which he was recorded in canone that is in the metri- cular Book of the Chapter. The dignified Members of the Chapter were the Dean, Archdeacon, Chanter, Chancellor and Treasurer. The Dean presided over the Prebendarys, and is thought to have succeeded in Place of the Arch- presbyter. But these were sometimes distinct Offices: as in the College Church of Dunbar, the Dean and Archpriest had their several Prebends. Dean is called decanus in the Canon Law from the Greek δεκα for that