PATRONAGE.

SECT. II.

Vacant Stipend.

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to the patron, who de jure communi, and by our unquestionable consuetude, before the patronages were taken away by the rescinded Parliament 1649, and after the right of patronages were restored by the act of Parliament 1661, the patron had the unquestionable right to the vacant benefice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.

1604. 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

Patronage found to carry right to vacant stipends, after seven years application to universities by act of Parlia. ment, notwithstanding an act of Council prorogating that act to seven years more.

No 27.

No 29.

No 28.

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