

No 41. or never taken by probationers before they were licensed; the common time for qualifying was after they had got a presentation, and were in the course of obtaining a settlement; so that as the taking the oaths before being admitted and ordained was sufficient to remove the objection of disqualification, and save the presentee from penalties, it must, *a fortiori*, be sufficient to save the patron's right from forfeiture.

THE LORDS adhered.

Lord Ordinary, *Monboddoo*.
Clerk, ———.

For the Presbytery, *Maclaurin, Crosbie*.
For D. Erskine, *Craig, Rae*.

R. H.

Fac. Col. No 42. p. 115.

1776. August 2. PRESBYTERY OF STRATHBOGIE *against* SIR WILLIAM FORBES.

No 42.

SIR WILLIAM FORBES of Craigievar being abroad while the church of Grange, of which he was patron, became vacant, his mother Lady Forbes, factrix and commissioner for her son, in virtue of a commission empowering her 'to pursue and defend all actions, civil or criminal, whenever he or his estate might be concerned, till he should attain the age of 21,' granted a presentation before the expiry of the six months, but after the period of her son's majority; though, as being abroad, he had never recalled his commission, and she had continued to exercise every act of administration relative to his affairs. The Lady, however, to obviate any objection to her title, procured from her son abroad a ratification of all she had done, and particularly of the grant of the patronage; but this did not arrive till after the expiry of the six months; and the presbytery, in the mean time, had declared the *jus devolutum*, rejected the presentation, and given another in favour of a person of their own choosing. In a declarator brought by the presbytery for supporting their presentation, it was urged for the patron, that the *jus devolutum* cannot fall but through the patron's neglect to exercise his right during the legal term; but here there had been no neglect on his part; for his mother, whose administration, even if questionable, he had ratified, had within the legal term exercised his right. THE LORDS repelled the defences, and decerned in the declarator. See APPENDIX.

Fol. Dic. v. 4. p. 49.

1795. May 15.

No 43.

The six months within which pa-

LORD DUNDAS and MR JOHN NICOLSON *against* The PRESBYTERY of Zetland, and MR ARCHIBALD GRAY.

MR JAMES BARCLAY, minister of Unst in Zetland, died on the 24th December 1793.