

P R O F E S S O R O F L A W .

1744. December 4.

M^r JAMES CATANACH *against* M^r CHARLES HAMILTON-GORDON.

UPON a vacancy of the office of Civilist, or Professor of Civil Law, in the King's College in the University of Aberdeen; the proper electors met to fill it up, when, confessedly, the majority of votes fell upon Mr James Catanach, procurator before the courts at Aberdeen, and the minority upon Mr Charles Hamilton-Gordon advocate; hence arose a competition between these gentlemen, wherein each objected to the other's being qualified to hold the office, and insisted that himself was only capable thereof.

Pleaded for Mr Catanach, That by the foundation, the Civilist ought to be a Doctor of Laws, or if that could not be had, a *licentiatus cum rigore examinis*, without which quality, no person was capable of being chosen: That he was possessed of this quality, as having been admitted Doctor by the Marischal College of Aberdeen, who had power, and were in use to confer such degrees, and Mr Gordon had it not.

Supposing any defect in his degrees, or that the qualification was in disuse, he was *in pari casu* in that respect, and behoved to carry it by plurality of votes.

Pleaded for Mr Gordon, That as university-degrees, considered as necessary qualifications, were undoubtedly in disuse since the Reformation, in so much that few Professors of Divinity were Doctors; he was qualified in the meaning of the foundation, having been admitted advocate before the Court of Session *cum rigore examinis*; and Mr Catanach was not, having obtained a sham diploma, from a body not entitled to give one, nor till of late assuming any such power, and that without any examination. It appeared that advocates had very early been looked upon as capable, and when others were admitted, they were taken bound to obtain themselves made Doctors of Laws.

Pleaded further for Mr Catanach, That several who were no advocates had granted no such bonds; and that in the case of those who had granted them,

No R.
University
degrees ne-
cessary, by
the founda-
tion of a pro-
fession as a
qualification
for holding it,
now in disuse,
were found
supplied by
an equiva-
lent.

No 1.

who were only two, the true occasion was, that the University having no funds for salaries, the Professors were obliged to take the office without any, and give bond to teach as soon as it was endowed; and the other clause had been thrown in beside the principal intention.

THE LORDS, 20th July 1744, found that James Catanach was not duly qualified to be elected Professor of the Civil Law in the King's College of Aberdeen, and that Mr Charles Hamilton-Gordon was duly qualified to be elected into the said office; and this day, on a reclaiming bill and answers, they adhered.

For Mr Gordon, *Ch. Areskine.*

For Mr Catanach, *Ja. Graham, jun.*

Fol. Dic. v. 4. p. 154. D. Falconer, v. 1. p. 15.

* * * This was reversed by the House of Lords, and Mr Catanach preferred.

See COLLEGE.—See APPENDIX.