

THE LORD ORDINARY had found, ' That the defender Alexander Gordon had the preferable right to the patronage in question ;' and

No 25.

' THE COURT having heard parties procurators in their own presence, adhered to the interlocutor of the Lord Ordinary.

A reclaiming petition against this judgment, to which an additional one was joined, were, on being advised with answers, both refused.

Lord Ordinary, *Ankerville.*
Clerk, *Orme,*

Act. *Ilay Campbell, Crosbie.*

Alt. *Blair, R. Dundas.*

S.

Fol. Dic. v. 4. p. 53. Fac. Col. No 95. p. 147.

1788. February 7. HUGH GRANT *against* The DUKE of GORDON.

No 26.

IN 1726, a vacancy in the united parishes of Moy and Dyke had been supplied in consequence of a presentation from the predecessor of Mr Hugh Grant.

One of the patrons in an united parish, may present on every vacancy, if no presentation be offered by the other patron.

In 1782, on the death of the incumbent, different presentees were offered, by the Duke of Gordon, as having right to the sole patronage; and by Mr Hugh Grant as patron of Moy. And the settlement having been delayed till the question of right should be determined in the civil courts, it was at length found by the Court of Session, that the patronage of Moy belonged to Hugh Grant, and that of Dyke to the Crown.

Still, however, the Duke of Gordon, whose ancestors had been in use of presenting in this parish, insisted, that the patron of Moy having exercised his right on the immediately preceding vacancy, the person named by himself should be preferred, or that at least the right of presentation should be held as devolved, for that time, to the presbytery.

Observed on the Bench: The enactment of 1617, c. 3. provides, that, in the union of two or more parishes, ' the presentation of ministers should be appointed by the commissioner's of tithes, to pertain to the patrons *alternis vicibus.*' But by this it was not intended to abridge the *rights* of patrons, but merely to regulate the *possession*, in the only way which the nature of the case admitted of. When, therefore, the patron who may present on a particular vacancy does not chuse to exercise his right, that of the other, meeting with no obstruction, must be allowed its fullest influence.

' THE LORDS preferred the presentee of Mr Hugh Grant.'

Lord Ordinary, *Swinton.*
Clerk, *Sinclair.*

Act. *Blair, Jā. Grant.*

Alt. *Maclaurin, Honyman, Tait.*

G.

Fol. Dic. v. 4. p. 49. Fac. Col. No 18. p. 33.