

21-17

0 1 2 3 4 5 6 7 8 9

0487

R E P O R T
FROM THE
C O M M I T T E E
To whom the PETITION of the
C O M M I S S I O N E R S
OF THE
GENERAL ASSEMBLY of the Church
of *Scotland*;

And also the PETITION of
JAMES Earl of *Morton*,
AND OTHERS,
On behalf of Themselves, and other NOBLEMEN,
GENTLEMEN, FREEHOLDERS, and HERETORS,
in *Scotland*;

W A S R E F E R R E D .



Printed in the Year M.DCC.LI.

R E P O R T
 FROM THE
 C O M M I T T E E

To whom the PETITION of the
 Ministers of *Scotland*, &c.

W A S R E F E R R E D.

THE Committee to whom the Petition of Mr. *Robert Patoun*, Minister of *Renfrew*, Moderator of the last General Assembly of the Church of *Scotland*, Dr. *Patrick Cumming*, Professor of Church History, and one of the Ministers of *Edinburgh*, Mr. *William Steel*, Minister at *Sorn*, and Mr. *David Dalrymple*, Advocate, Ruling Elder, Commissioners for the General Assembly of the Church of *Scotland*; and also the Petition of *James Earl of Morton*, *James Earl of Lauderdale*, *John Earl of Hopetoun*, *Charles Hope Weir*, *Robert Dundas*, and *Archibald Murray*, Esquires, on behalf of themselves, and great Numbers of other Noblemen, Gentlemen, Freholders, and Heretors, in that Part of *Great Britain* called *Scotland*; were severally referred; have, pursuant to the Order of the House, examined the Matter of the said Petitions.

And it being, by the first-mentioned Petition, alleged, That by the Laws of *Scotland*, before the Union of the Two Kingdoms, Provision was made for the Maintenance of the Ministers of the Gospel in the respective Parishes of that Kingdom, by appointing,

appointing, from time to time, Parliamentary Commissioners for Plantation of Churches, and Valuation of Tythes, who were impowered to appoint and settle a constant and local Stipend to each Minister, to be paid out of the Tythes of each Parish, and also to grant Augmentations to Ministers not already sufficiently provided for; and that all the Powers of such Commissioners were, by an Act of the last Parliament of *Scotland*, vested in the Court of Session;

And the Petitioners, in the Second Petition, insisting, That by the Laws of *Scotland*, made before the Union, and now in Force, a very sufficient and ample Provision is made for the Maintenance of Ministers, and Augmentations of such of their Stipends as have not been legally modified and settled, pursuant to the Laws in being; and for the due Payment of Stipends, and the uniting and dividing Parishes;

In order to shew what the Law of *Scotland* was, in relation to this Matter, before the Union, the following Acts of the Parliaments of *Scotland* were severally produced, and read to your Committee, by the Petitioners respectively, in Support of their respective Allegations; that is to say,

1. The 3d Act of the Parliament of *Scotland*, Anno 1717. intituled, *Anent Plantation of Kirks*; whereby certain Commissioners, commonly called Commissioners of Teinds, were appointed, with Power to call and summon before them all Patrons, Taxmen of Teinds, great and small, and all others having Right, by whatsoever Title, to the Teinds within *Scotland*, as they should think necessary and expedient, to exhibit and produce before them their Rights and Titles, whereby they claim the said Teinds, to be seen and considered by the said Commissioners; with Power to them, out of the said Teinds of every Parish, to appoint and assign, at their Discretions, a perpetual local Stipend to the Ministers present, and to come at all Kirks that should be found by them, either as yet not provided at all with Ministers and Stipends, or where the Provision was less than Five hundred Marks of yearly Rent in Money, or Five Chalders Victual (besides Manse and Glebe), or such Proportion, particularly of Silver and Victual, as would extend to Five hundred Marks, or Five Chalders of Victual yearly; and which was the least and the meanest Stipend; and Provision thereby appointed to be given and assigned to any Minister for his local Stipend in time coming, where the Fruits of the Benefice will extend to that Quantity in manner under-written; and that notwithstanding

withstanding of any Right or Title pretended by the said Taxmen, or others, in whose Favours Teinds have been erected; with special Power also to the said Commissioners to unite such Kirks, one or more, as might conveniently be united, where the Fruits of any one alone would not suffice to entertain one Minister. Provided, That whereas there were divers Kirks, whereof the Fruits of any one would not extend to the Quantity of Five Chalders Victual, nor Five hundred Marks of Silver in yearly Commodity, and that the Rents, and whole Patrimony thereof, were no-ways answerable to that Proportion, and so was not sufficient alone for the full Maintenance of one Minister; and yet nevertheless for Distance of Place, or other lawful Causes, might be found incommodious to be united; where-by Necessity would evince, that every Kirk in that Estate should be planted with their own particular Minister, to serve thereat, whose Provision behoves necessarily to consist of the Fruits of the Benefice itself, however mean the same be. Therefore it was declared, That it should be sufficient to the said Commissioners, in that Case, to assign and appoint, to the Minister to be planted at any such Kirk, the whole Fruits pertaining to the Patrimony thereof, by and attour his Manse and Glebe, which Fruits were to be enjoyed by him and his Successors thereafter, as their perpetual local Stipend and Provision; and that where any Kirks were already sufficiently provided, albeit their Provision exceed the aforesaid Quantity of Ten Chalders Victual, or One thousand Marks of Money; and also where the Fruits of any Benefice were in the Possession of the Minister; that the same should be continued in the Estate wherein it then was, and not be meddled with by the said Commission. And it was thereby enacted, That the Decrets and Sentence of the said Commissioners, in all the Particulars aforesaid, to have the Strength, Force, and Authority of Decreet, Sentence, and Act of Parliament; and that no Person, in whose Favours the Teinds of Kirks and Benefices are erected, nor no other whatsoever bruiking Teinds, by virtue of Rights lawfully made to them of the same, according to the Laws of the said Realm then standing, should be ever farther altered or quarrelled in any of their said Rights, in any time to come. farther than should be appointed by the said Decreet and Sentence to follow present Commission; but the said Rights and Securities, in Case aforesaid, shall remain in their own Strength, Force, and Effect, as good, lawful, and sufficient Rights and Securities to them, and every one of them, for their own Parts, for bruiking
B and

and enjoying the said Teinds, conform to the Tenor of the said Rights for now and for ever.

2. The 5th Act of the Parliament of *Scotland, Anno 1621.* intituled, *Anent the Plantation of Kirks as yet unplanted,* whereby the Commissioners therein named were impowered to call, and summon before them, all Patrons, Tacksmen of Tythes great and small, and others having Right, by whatsoever Title, to the Tythes of any of the Kirks within that Kingdom, which were not then already planted by the said First Commission, and which should be any-ways meddled with by that present Commission, as they should think necessary and expedient, to exhibit and produce before them their Rights and Titles, whereby they claimed the said Teinds, to be seen and considered by the said Commissioners; with Power to the said Commissioners, out of the said Tythes of every Parish and Kirk not already planted, to appoint and assign, at their Discretions, a perpetual local Stipend to the Ministers present, and to come at all the said Kirks unprovided as aforesaid; and with Power also to the said Commissioners to disunite such Kirks, one or more, as were united before, and appointed to be served by one Minister; and, as they, upon good Considerations, should find requisite, to appoint to be served with several Functions and Charges, as distinct Parishes, after such manner as should be found by them most expedient: Provided always, That all Parties having Interest in the Union and Disuniting of the said Kirks, and Plantation thereof, give their exprefs Consent thereto; and that the said Commissioners should have no Power, by virtue of the said Commission, to alter, or meddle with, any Kirks which were settled by virtue of the Commission granted in 1617. or to change the Estate thereof in any-ways, or to erect, build, or provide, any new Kirk, without the special and exprefs Consent of all Parties having Interest, had and obtained thereto; without whose Consents it should not be lawful for the said Commissioners in any-ways to touch the said Kirks so provided, but the same were expressly excepted (except in Cases of Consent, as aforesaid) out of that present Commission.

3. The 8th Act of the Parliament of *Scotland, Anno 1633.* intituled, *Ratification of the Act of Commission anent the Ministers Provisions,* whereby the Parliament ratified and approved the Act of Commission of Surrenders and Teinds, dated *Holy-wood-house,* the 26th Day of *June 1627.* whereof the Tenor follows:

follows: " The Commissioners, after reasoning upon the lowest Proportion and Provision wherewith the Ministry serving the Cure at each Kirk shall be provided, have found it meet and expedient, that the lowest Proportion shall be Eight Chalder of Victual, where Victual is paid, or proportionally in Silver or Victual, as the Commissioners shall appoint at the Settling of the Kirk, and according to the Estate of that Part of the Country where the Payment of the Stipend shall occur: And think it meet, that the said Proportion of Eight Chalder of Victual, or proportionally in Silver, as said is, shall be the lowest Maintenance to each Kirk, except such particular Kirks occur wherein there shall be a just, reasonable, and expedient Cause to go beneath the Quantity now determined." And this Act of Parliament referred to the Commissioners of Teinds the Consideration of the Reasons and Causes which might move them (after the Valuation of the true Worth of the Teinds of each Parish should be closed) to determine and modify a less Quantity for the Ministers Maintenance, than the said Quantity of Eight Chalder of Victual, or Eight hundred Marks in Victual or Money proportionally; and what the said Commissioners should determine therein was to stand, notwithstanding the said Ratification; and ratified and approved the Acts of the said Commission of Surrenders and Teinds, whereby Stipends are appointed and modified by the said Commissioners already; and that the Lords of Session direct Letters of Horning and Poinding, in favour of the said Ministers, conform thereunto, upon one simple Charge of Ten Days allennerly; and also upon all other Acts to be made for Plantation of Kirks, by the Commissioners appointed by his Majesty, and Estates, for that Effect.

4. The 19th Act of the Parliament of *Scotland, Anno 1633.* intituled, *Commission for Valuation of Teinds not valued, rectifying the Valuations of the same already made; and other Particulars therein contained*—whereby the Commissioners of Teinds thereby appointed were impowered to prosecute, and follow forth, the Valuation of all Parsonage or Vicarage Teinds within that Kingdom; and to appoint Sub-Commissioners within any Parish or Presbytery, for leading and deducing such Valuations; and, after the Closing and Allowance of the Valuations of each Kirk and Parish, to appoint, modify, and set down, a constant and local Stipend and Maintenance to each Minister, to be paid out of the Teinds of each Parish, according to the Tenor of the Acts above specified; referring to the said Commissioners the

Tryal

Tryal of the Reasons and Causes which might move them to go beneath the Quantity of Eight Chalder of Victual, or of Eight hundred Marks of Money proportionally, in manner contained in the said Act: And the said Commissioners were thereby empowered to divide ample and spacious Parishes where the same should be found necessary and expedient, or unite divers Kirks in Whole or in Part to others; and to ratify and allow, after Trial and Consideration, such Union or Dismembering of Parishes, as had been formerly made by virtue of the former Commissions; and to take Order, that every Heretor and Life-renter of Lands should have the Leading of his own Teinds, Parsonage and Vicarage thereof, they paying the Price therein specified.

5. 61st Act of the Parliament of *Scotland*, Anno 1661. whereby the Commission for Plantation of Kirks, and Valuation of Teinds, was renewed; and the Commissioners therein named were empowered to value whatsoever Teinds were then unvalued, and to appoint constant and local Stipends to Ministers, and to dismember, annex, and unite Kirks, &c.

6. The 28th Act of the Parliament, Anno 1663.

The 15th Act of the Parliament, Anno 1672.

The 28th Act of the Parliament, Anno 1685.

The 22d Act of the Parliament, Anno 1686.

The 30th Act of the Parliament, Anno 1690.

The 23d Act of the Parliament, Anno 1693.

Whereby the Commissioners therein named were respectively empowered to value all Teinds, which, at the respective Times of the passing these Acts, were unvalued; and to appoint Sub-Commissioners, conform to the former Acts and Commissions, for Valuation of Teinds; and, where Ministers were not sufficiently provided, or had not Localities assigned to them for their Stipends, out of the Teinds within the Parish where they serve the Cure, the said Commissioners were empowered to modify, settle, and appoint, constant local Stipends to each Minister, out of the Teinds of the Parish where they serve the Cure, in so far as the same would amount to, according to the Quantities of Victual or Money mentioned in the said Acts and Commissions; and to decide and proportion the said Localities.

7. The 23d Act of the Parliament of *Scotland*, Anno 1690. intituled, *Act concerning Patronages*; whereby the Power of presenting Ministers to vacant Churches, exercised by Patrons, was discharged

charged and made void; without Prejudice, to the Patrons, of their Right to employ the vacant Stipends on pious Uses within the respective Parishes; except where the Patron is Popish, in which Case he was to employ the same on pious Uses, by the Advice and Appointment of the Presbytery, as is therein mentioned: And it was thereby Enacted, That in case of the Vacancy of any particular Church, and for supplying the same with a Minister, the Heretors of the said Parish (being Protestants), and the Elders, were to name and propose the Person to the whole Congregation, to be either approved or disapproved by them; and, if they disapprove, that the Disapprovers give their Reasons, to the Effect the Affair might be cognosed upon by the Presbytery of the Bounds, at whose Judgment, and by whose Determination, the Calling and Entry of a particular Minister were to be ordered and concluded: And that if Application were not made by the Elderhip and Heretors of the Parish to the Presbytery for the Call and Choice of a Minister, within Six Months after the Vacancy, that then the Presbytery might proceed to provide the said Parish, and plant a Minister in the Church *tanquam jure devoluto*: And, in Recompence of the said Right of Presentation thereby taken away, the Heretors and Life-renters of each Parish, and the Town-Councils for the Burgh, were decreed to pay to the said Patrons the Sum of Six hundred Marks, upon the said Patron's granting a sufficient and formal Renunciation of the said Right of Presentation in favour of the said Heretors, Town-Council for the Burgh, and Kirk-Session: and the Right of the Teinds of the said Parishes, which were not heretably disposed, should, and thereby were declared to belong to the said Patrons, with the Burden always of the Ministers Stipends, Tacks, and Prorogations, already granted of the said Teinds, and of such Augmentations of Stipends, future Prorogations, and Elections of new Kirks, as should be found just and expedient.

8. The Ninth Act of the last Parliament of *Scotland*, Anno 1707. intituled, *Act anent Plantation of Kirks, and Valuation of Teinds*, whereby the Lords of Council and Session are empowered to judge and determine in all Affairs and Causes whatsoever, which were by Law referred to the Commissioners of Teinds; and particularly to grant Augmentation of Ministers Stipends, to disjoin too large Parishes, to erect and build new Churches, to annex and dismember Churches as they should think fit, conform to the Rules laid down, and Powers granted, by the 19th Act of the Parliament 1633: the 23d and 30th Acts of the

the Parliament 1690. and the 24th Act of the Parliament 1693. so far as the same stood unrepealed; the transporting of Kirks, disjoining of too large Parishes, and erecting and building of new Kirks, being always with the Consent of Three-fourth Parts in Value of the Heretors of the Parish. Copies of the said Acts of the Parliament of *Scotland* made in the Years 1617. 1621. 1633. and 1707. are annexed in the Appendix, No. I.

9. An Act of the Parliament of *Great Britain*, made in the Tenth Year of the Reign of Queen *Anne*, Chap. 12. intituled, *Act to restore the Patrons to their antient Right of presenting Ministers to the Churches vacant in that Part of Great Britain called Scotland*, was also produced, and read to your Committee; whereby, after reciting, That, by the antient Laws and Constitutions of that Part of *Great Britain* called *Scotland*, the presenting of Ministers to vacant Churches did of right belong to the Patrons, until, by the 23d Act *Anno* 1690. the Presentation was taken from the Patrons, and given to the Heretors and Elders of the respective Parishes; and, in place of the Rights of Presentation, the Heretors and Life-renters of every Parish were to pay to the respective Patrons a small and inconsiderable Sum of Money, for which the Patrons were to renounce their Right of Presentation in all times thereafter; and that that Way of calling Ministers had proved inconvenient, and had not only occasioned great Heats and Divisions among those, who, by the aforesaid Act, were intituled and authorized to call Ministers; but likewise had been a great Hardship upon the Patrons whose Predecessors had founded and endowed those Churches, and who had not received Payment or Satisfaction, for the Right of Patronage, from the aforesaid Heretors or Life-renters of the respective Parishes, nor had granted Renunciations of their said Rights on that account; the said Act, made in the Year 1693. intituled, *Act concerning Patronage*, in so far as the same relates to the Presentation of Ministers by Heretors, and others therein mentioned, was thereby repealed; and it was Enacted, That, in all time coming, the Right of all and every Patron or Patrons to the Presentation of Ministers to Churches and Benefices, and the disposing of the vacant Stipends for pious Uses within the Parish, should be restored, settled, and confirmed; and that, from and after the First Day of *May* One thousand Seven hundred and Twelve, it should be lawful for her Majesty, her Heirs and Successors, and every other Person or Persons who had Right to any Patronage or Patronages of any Church or Churches whatsoever

in *Scotland* (and who had not made and subscribed a formal Renunciation thereof under their Hands) to present a qualified Minister or Ministers to any Church or Churches whereof they are Patrons, which should, at any time after the said First Day of *May*, happen to be vacant; and that the Presbytery of the respective Bounds should, and were thereby obliged to receive and admit, in the same manner, such qualified Person or Persons, Minister or Ministers, as should be presented by the respective Patrons, as the Persons or Ministers presented before the making of the said Act ought to have been admitted: Provided that in case the Patron should neglect or refuse to present any qualified Minister within Six Months after the Vacancy happens, that the Right of Presentation should belong, for that time, to the Presbytery of the Bounds, who are to present a qualified Person for that Vacancy, *tantum jure devoluto*: And in case of Patrons being Papists, who shall refuse to take the Oaths and *Formula's*, such Patrons Right of Presentation for that Turn is thereby vested in the Crown. Then

The Rev. Mr. *Thomas Randal*, an established Minister of the Church of *Scotland*, informed your Committee, That there are several Ministers, his Neighbours, under the Sum allowed by Law, which is 44*l.* 8*s.* 10*d.* $\frac{2}{3}$, who have not applied for Augmentation: And he said, That his near Neighbour, Mr. *James Anderson*, Minister of the united Parishes of *Lundy* and *Foullis*, had not applied; and the Reason which Mr. *Anderson* gave him for not applying, was, on account of the Expence; but whether the said Mr. *Anderson's* Stipend is above the 44*l.* he cannot tell; but he was sure it was not 60*l.* and thinks not 55*l.*: That his united Parishes are attended with a great deal of Trouble, and every one else thinks an Application for Augmentation would be attended with Success; but the Witness does not know whether he has any Decret of Modification—Being cross-examined, he was asked how many Heretors there were in the said Parish of *Lundy* and *Foullis*? he said, There were Three or Four; but could not tell what was the Expence of summoning a Heretor. Being asked, Whether he had ever been a Member of the General Assembly of the Church of *Scotland*? he admitted he had: And being asked, Whether it was not frequent for the Church of *Scotland*, in Causes of Augmentation, to defray the Expence, in case of Poverty? he answered, He knew little of the Accounts, nothing of his own Knowledge; but said, Knew in general where the Ministers were very poor; and, from distant Isles and Places, the Committee of Accounts have been apt to be

be indulgent to them as to the Expence; but said, He did not know what Fund they had to do it. Being asked in regard to the Expence of living in that Part of the Country, he said, That he lived within Four Miles of Mr. *Anderson*: That he, the Witness, had a competent Stipend, and that he spent it all without being thought extravagant; and that he believed Mr. *Anderson* could but barely subsist on his. Being asked, Whether he heard Mr. *Anderson* make a Computation of the Expence; he said, That he believes Mr. *Anderson* was ignorant of Law-Affairs; that he had often asked the Witness his Opinion, and that he had told him, The Expences would amount to 27 *l.* Sterling, and that he believes he was deterred from an Application by the Expence; but had another Reason for his not applying, which was, That he lived well with his Heretors, and did not care to disoblige them: And he said, That he has heard that Heretors have been disoblighd by such Procefs, but did not know it of his personal Knowlege.

Mr. *John Campbell*, Merchant, being examined, said, That he knew of Two Ministers whose Stipends were under the Legals, who had never applied for an Augmentation, Mr. *Hunter*, Minister of *Newcumlock*, and the Minister of *Cambray*; and that he has heard of many by common Fame, who were in the same Circumstances. And being cross examined, he said, That he had only heard it reported, that the Livings of those Two Ministers above-mentioned were under the Legal, but they had never told him so themselves; nor can he tell the Number of Heretors in those Parishes: And that he has heard, the Reasons they did not seek for an Augmentation, was the great Expence, and the Fear of disoblighing the Heretors; but that he never heard those particular Men say so. And further said, That he had heard this several Years ago, before any Application of this Sort from the Clergy was thought of; and particularly from Mr. *Auld of Machlin*, who told him, He did not sue for Payment of his Stipend on account of the Expence: And that he has heard the common Expence of a Decreet of Augmentation is 29 *l.* or 30 *l.*

That he has heard, the Value of the Living of *Newcumlock* is between 35 *l.* and 40 *l.* and *Cambray* about 30 *l.*; and that he founded his Opinion of the Value of them from what he heard People say; and believes there are free Tythes in the Parish of *Cambray*. Being asked, Whether the Country where those Two Parishes were situated was not as cheap as the cheapest Part of
Eng-

England; he said, He could not answer that Question, as he was unacquainted with *England*; but that a Fowl there cost about 6 *d.* and far from Town 4 *d.*; and a Boll of Meal cost about 10 Marks, which is about 11 *s.* Sterling. He added, That several Heretors had taken amiss the Application of the Clergy to the Parliament; but he apprehends such Disgust was confined to that Part of the Application only which relates to the Increase of the *Minimum*: They objected to the Ministers seeking Augmentation in general, and the *Minimum* in particular.

The Petitioners rested the Proof of this Part on the general Allegations of their Petitions, and the foregoing Evidence.

Then, in order to shew the Expence of obtaining a Decreet of Augmentation, the Solicitor for the First Petition said, That the Method is by summoning, which Summons must be executed by a Messenger at Arms, as the Law now stands, and cannot be executed by any other Person: To prove which, the Petitioners produced the 75th Act 1540. intituled, *The Order of summoning all Persons in Civil Actions*; by which it is statuted, That all Summonses must be executed either personally, or at the Dwelling-house: And the 12th Act 1693. intituled, *Act concerning Citations to the First and Second Diet*; which provides, That all Copies of Summons, Charges, Inhibitions, Arrestments, or other Letters whatsoever, given to the Party, shall bear at Length, and not in Figures, the Day and Date of the Delivery thereof, and also the Names and Designations of the Witnesses, in such sort as the Execution and Indorsation did and doth bear; the same certifying the Messenger, who shall omit to insert the said Day and Date, and Witnesses, in his Copy, That he shall incur Deprivation and Tinsel of his Office: The Act 9th 1707. *Act anent Plantation of Kirks, and Valuation of Teinds*; which statutes, That the Lord Register, and his Deputes, shall have the sole and only Power and Privilege of raising and subscribing of the Summonses and Diligences relating to Procefs before the Commission of Teinds, the same always passing her Majesty's common Signet, as formerly.

Copies of the said Acts 1540. and 1693. and the 9th Act of Queen *Anne*, 1707. all of the Parliament of *Scotland*, were severally read; Extracts whereof are annexed in the Appendix, No. I.

The Rev. Mr. *Thomas Randal*, being further examin'd, said, That a Decreet of Locality is necessary to a Decreet of Modification: That he has heard of many Ministers who had no Decreet

of Locality; but received their Stipends by what is call'd in *Scotland*, Use and Want, *i. e.* by Custom.

Mr. *John Russel*, Writer to the Signet, said, He was once employed as an Agent for a Minister, in suing for a Decreet for a Modification and Locality: Said, That some Ministers have no Decrets of Locality; but he knows of none, who have not a Decreet of Modification: That a Modification settles the *Quantum* paid to each Minister, and the Locality settles what Proportion each Heretor is to pay, and what Land should pay it: That it is impossible to ascertain the Expence of an Augmentation Cause; because that must vary according to the Opposition given, and the Number of Heretors in Parish, and the Distance they live from one another; for it is necessary to employ a Messenger in summoning the different Heretors, who is obliged to take with him Two Witnesses; and when he executes such Summons, the Names and Designations of the Two Witnesses must be in the Copy delivered to the Defendant, and they must sign the Return: And that Summonses executed in any other manner are in themselves void: And the said Summonses are either to be served personally, or at the Dwelling-house of the Defendant. And it is the Rule to allow the Messenger, for himself and Two Witnesses, One Shilling a Mile from the Place of his Residence, and One Shilling for each Copy he delivers to the Defendants, if they don't exceed Three in Number, and Six-pence each Copy, if they are above Three, and lie near; but this Rule is not certain: That Complaint being made of the Exorbitancy of the Messenger's Fees to the Lords of Session, it was referred by the Lords to the Writers of the Signet; who gave it as their Opinion, That the aforesaid Charge was sufficient: But the Messengers petitioned against that Opinion; and the Matter remains still undetermin'd, and the Custom is, to make the best Bargain they can for their Clients.

He further added, That some Parishes consist of One hundred Heretors, and some of only One: That they often live at a Distance from one another; and that a Citation from the Desk would save the Messenger's Fees, if they are not employ'd: That it is a greater Expence for a Minister to sue for his Stipend, where he has no Decreet of Modification or Locality, than when he has such Decreet.

And in a Suit, in which he was concerned, where the Lawyers took no Fees, and the Minister paid Part of the Expence of the Execution of the Summons himself, the Expence amounted to
between

between Eight Pounds and Ten Pounds; but that he could not say what was the Expence in general; because he had never been but once employed for a Minister, though several times for the Heretors.

Being cross-examined, he said, That there are Messengers in the Country; but where Business is small, they live far distant from one another: And knows an Instance, where a Messenger has been sent Eight Miles from his Residence: That the Person for whom he brought the said Suit, was Mr. *Henry Miller*, the Minister of the Parish of *Neillston*; which Stipend was below the Legal; and that the Lords of Session augmented his Stipend from Four Bolls less than Eight Chalder (which is the Legal in Vic-tual), to Ten Chalder; which, when converted into Money, would amount to 83 *l.* 6 *s.* 8 *d.*; and that the Value of his Stipend, before it was augmented, amounted to 63 *l.* 6 *s.* 8 *d.* in Money.

Being ask'd, whether it was not usual for the Lawyers to take no Fees in the Cases where the Clergy were concerned, and whether the other Subjects of *Scotland* were not under the same Difficulty in point of Summoning, he said, That he had known some Cases where the Lawyers had refused Fees from the Clergy, upon account of particular Connexions; but has known an Instance, where Lawyers have taken Fees: And, he said, That every other Subject in *Scotland* is under the same Difficulty, as to the Summoning by Messengers, as the Clergy. He further added, That he knew Four or Five Parishes, which consisted of One hundred Heretors each, upon account of the Estates being lett out to small Fewers; and mention'd particularly *Lockquinnock*, in the Shire of *Renfrew*; but he don't know, whether that Living is above or under the Legal.

And being ask'd, he said, He apprehended an Act, made in the last Parliament of *Scotland*, whereby the Jurisdiction concerning the Plantation of Churches, and Valuation of Tythes, was vested in the Court of Session, was, in his Opinion, for the Benefit of both Clergy and Laity.

That he thinks the Court of Session has a Power of lessening such Fees as are not settled by Act of Parliament; and that the Messenger's Fees are not fix'd by any Act. He was further ask'd, whether the Court of Session could alter their Acts of *Sederunt* when once establish'd: He said, He was of Opinion they could; though he does not remember an Instance where they did it.

Mr.

[16]

Mr. *George Chambers*, Clerk to the Signet, said, He was never concern'd as Agent for a Minister in an Augmentation Cause; but has been for the Heretors: That the Method is, to summon all the Heretors; and that such Summonses pass under the Signet: That the Expence depends on the Number of Heretors, and the Nearness of the Place, the Messenger's Fees being One Shilling a Mile, and One Shilling a Copy, if Three or Four Copies, and, if a greater Number of Copies, Six-pence or Eight-pence for each Copy, if nigh; and that the Shilling a Mile is allow'd from the Place of the Messenger's Residence, who is obliged to carry Two Witnesses with him, if he can't find them at the Place; and that he ordinarily carries them with him. He further added, That the Heretors live in some Places nigher, in some more distant from one another; and, he believes, in the Parish of *Inveresh* the Number of them greatly exceeds Forty or Fifty: And that if a Messenger neglect to summons properly, without Two Witnesses, the Summons would be illegal. And he said, He never was concerned for a Minister in a Decree of Augmentation, but that he had heard the Expence thereof would be Twenty Pounds, or Thirty Pounds, when there is no Opposition; but could not tell of his own Knowledge; and that the Expence of the Heretors, if litigated, would be above that Sum: And that a Citation from the Desk, without doubt, would greatly lessen the Expence: And that, in his Opinion, the Lords of Session have not a Power to make a Citation from the Desk legal; as he apprehends, it is fixed by Statute: But that is a Point of Law.

Being cross-examined, he was asked, Whether, if the Method of Summoning should not appear to be fixed by Statute, but only by Act of *Sederunt*, whether, in that Case, the Lords of Session could not alter it: He said, That, as it is a Custom introduced by common Law, he should think it equal to a Statute, and that the Judges could not vary it; but could not say, whether the Commissioners of Teinds did not summons by a Messenger before 1706.; and, in case it should appear to have prevail'd only since the Year 1706. he cannot say, whether they could alter it: And does not know how the Commissioners of Teinds used to serve their Summons before the Union: That he was one to whom the Lords of Session referred the Regulation of the Messengers Fees; and thinks, the Lords of Session have a Power to regulate them.

As to the Lawers refusing Fees from the Clergy, he knows one who refuses them; but thinks the general Practice is to take them.

Being

[17]

Being further examined, he said, He believed that if Summonses are not executed according to the 75th Act 1540. they are null and void; and that the Lords of Session have nothing to do with Summonses till they come to Judgment, such Summonses being regularly directed, under the King's Signet, to Messengers at Arms, and to them only: That he believes, the Lords of Session can by Act of *Sederunt* remedy any Grievance in Process for the Ease and Good of the Sutor, unless the Form is established otherwise by Law, or inveterate Custom of common Law, which has been observ'd for Ages. Being ask'd, whether inveterate Custom can be establish'd since the Union; he said, He could not say: That if it was to alter another Custom, and if the preceding Custom had been different, he thinks the Lords of Session might alter it; and that, in his Opinion, the Lords of Session have a Power to alter any thing in the Name of Process before the Court of Session, though establish'd by ever so inveterate a Custom, where no express Statute intervenes; and that they can alter their own Acts of *Sederunt*.

Mr. *David Bruce* said, He was acquainted with the Highlands and Isles; that Summoning was dangerous in those Isles; that some of the Parishes were Thirty Miles long, when Messengers must have a great Way to ride; but that those Parishes are chiefly in the Hands of a few Heretors; and that the Expence of all Law-suits is as great to all other Persons as the Clergy.

In Support of that Part of the first Petition, which complains of bad Payment of Ministers Stipends, the following Evidence was laid before the Committee.

Mr. *Ruffel*, being further examined, as to the Payment of Stipends, said, He knows some Heretors, who have been sued for the Payment of Stipends; and that he himself carried on an Action for Mr. *Macvey*, the Minister of *Mairnes* in *Chefdale*, who had no Decree, and was obliged to sue upon Use of Payment; which is more expensive, because the Minister is obliged to sue every Year; whereas, when there is a Decree, the Process comes to an Issue in Ten Days time: That he cannot say whether the Stipend of the Parish of *Mairnes* is above or below the legal; that those Stipends he had sued for had been some of them due Two or Three Years; but could not remember the particular Time; and that, as Writer to the Signet, he had signed several

E

Horn-

Hornings for Ministers, who had sued; and had known Heretors disobliged by taking out such Hornings.

Being asked, Whether it would not save Expence, and preserve Peace, if, instead of Horning, Interest were allowed half a Year after the Stipend is due, he said, That in his Opinion it would, if the Person who pays it valued the Interest, more than the Charge he must be put to afterwards: That it would save Expence when Tenants pay the Stipends, because the Landlords would not allow the Interest: And that in the Parts of *Scotland*, where he is concerned, it is the Custom for the Tenants to pay the Stipends, they being obliged by their Tacks to do so: And that in other Parts it is not, the Landlords paying it, as the Custom is.

Being cross-examined, he said, That the Laity were as ill paid as the Clergy; and that where he has been concerned, the Non-payment of the Clergy has proceeded more from Disputes than Inability: And that those Disputes arose partly from the Right being disputed, and partly from Humour; for if a Minister comes into a Parish, contrary to the Inclination of a Heretor, he makes it as disagreeable to him as he can.

And being further asked, if the Law was not more favourable to the Clergy, for the Recovery of Stipends, than to other Subjects, for the Recovery of their Debts, he said, It was not, if they are to sue at common Law: But in Cases, where they have a Decree, they have general Letters, which makes the Horning shorter: And the Expence of a Minister's Horning is less than another Horning; the other Horning paying 3 s. 1 d. $\frac{1}{2}$ at the Signet, and the Clergy only pay 10 d.; and the Fees to the Clerk is the same in both Cases; and that the Expence of Horning to a Clergyman, where a single Heretor only is concerned, is about half a Crown, if it is one Sheet.

That the Denunciation is Ten Days after the Horning, and that the Stipend bears Interest as soon as the Horning is recorded; all which Forms may be executed in Twelve or Fifteen Days, from the first Commencement, if it is not hindered by the Distance of Place.

And being asked, if a Horning did not put a Stop to the Tenants paying the Landlords their Rent, he said, It did; but that is a Way one would not advise, because that must be attended with another Expence, in paying the Messenger to make the Goods forth-coming, you have under Arrest: And he must have another Decree upon it, and, if they refuse to pay, must raise another Horning.

Being

Being ask'd, Whether or not, when a Minister puts a Heretor to the Horn, and he is denounced, if he can get rid of that without paying the Debt, Interest, and Costs, and One-fifth Part more, he said, The Debt he must pay; but if the Stipend is Vic-tual, it bears no Interest; if Money, it does; in which case he must pay it: As to Costs, the Minister is intitled to them; but he must sue for them again: And he believes there is an Act of Parliament for the Fifth Part more than the Costs.

And being asked, Whether the Clergyman has a Right to Costs of the Suit, in which he sues for Costs, he said, He thinks that is arbitrary in the Judge: That he the Witness was concerned in a Case for the Minister of *Mairnes*, which was suspended, where the Minister had no Decree of Locality; but had a Decree of Modification: The Dispute was on Account of his Predecessor's having accepted of Seven Stone and One-half, instead of Eight Stone, for each Boll; which is the complete Boll. The Minister brought his Action, and prevailed in it; but the Lords refused Costs, which were very considerable, because of the Use of Payment formerly; but said, He did not know any Instance where the Lords refused Costs, except where they thought it a doubtful Case.

On the Evidence being asked, Whether the Court of Session have ever refused Costs to a Minister where there was *Probabilis Causa Litigandi*, he said, They had refused it in some Cases, where he thought the Cause of Dispute reasonable.

And being ask'd, Whether it is not usual for the Heretors rather to pay Costs, than to put them to Suit, he said, He thought the Usage the other Way: That one Writ will serve a Clergyman his Life-time; but he must serve it each time, which is the same in case of a Lease; for one Horning subsists during the Tenant's Possession: But in other Cases, other Subjects are obliged to have a particular Writ against every Debtor: And in the Case of the Clergy, the Debtor must consign the Money in Court before the Horning can be suspended; but in other Cases, they may give Security: And he said, if Stipends should be made to carry Interest, and a Person, through Inability, or for any other Reason, could not, or would not, pay it, the Minister could not recover it by any other Method, but by a Horning, that he knew of: And being ask'd, Whether if he must proceed, in that Case, to a Horning, the Peace of the Parish would be preserved more by the Heretor's paying a Debt with Interest, than without, he said, That was Matter of Opinion; and he said, It was in the Option of the Minister, either to take the Stipend from the Landlord, or
the

the Tenant; and that if the Landlord was insolvent, the Tenant would be obliged to pay: That every Minister, since the Year 1617, has had it in his Power to obtain a Decree for fixing his Stipend, which, when once settled, serves equally for his Successors; and that, even upon Production of a Horning for a deceased Minister, he had raised a Horning for his Successor. As to the Expence of charging upon the Horning, he says, It is 1 s. if the Messenger lives in the same Place; if at a Distance, the same as for Citing: The Expence of Denunciation is usually 1 s.; if many Names, something more: And that of Registration is 20 d. a Sheet in the general Register, and 16 d. in the particular Registry; all which must be done annually, as the Stipend becomes due, in case there is no Decree of Locality: And that he had known Persons agree with Messengers by the Lump; and that the most of the Expence of following a Horning without Opposition, in the Witness's Practice, has only amounted to a Guinea. And being further asked the Reason, why Clergymen did not sue for Decrees of Modification and Locality, he answered, That he could say nothing to it in general; that he advised the said Mr. Macvey to sue for a Decree of Locality, rather than sue every Year; who declined it, upon account of the great Expence, which the Witness believes would have amounted to 40 l. or 50 l. as there were many small Heretors, and he was not liked; and every one would have battled it with him; and that the Costs of Two Suits, in which the Witness was employed for Mr. Macvey, cost him, as he believed, about 10 l. each Suit: But if the Right was established, that Expence would not follow in succeeding Years; for, in that Case, the Lords of Session would punish the Heretors for Obstinacy: In the last of which Suits, Part of the Costs were decreed and paid, to the Amount of 5 l.: But the Cost of extracting the Decree was not paid, which came to 5 l.: But in the first, nothing was paid, it being a disputable Case. And being asked, Whether, if the Right to the Stipends was once established, that Expence of 10 l. would follow in succeeding Years, he said, He thought not; for, in such Case, the Court would punish the Defendants for their Obstinacy: That he can't say to what Value Mr. Macvey recovered by the first Suit; but it was not much more than the 10 l.: And that his whole Income, as the Witness thinks, was near the legal, which is 44 l. 8 s. 10 d. Mr. Macvey told him it was near the legal, exclusive of Four Acres of Glebe; and that the Expence proceeded rather from the Litigiousness, than the uncommon Number and Distance of Heretors. Being asked, Whether he thought, in general,

general, the Scots Clergy had Reason to complain of bad Payment of their Stipends; and whether they were not better paid than other People; he said, He believed they were as well paid as other People: And being ask'd, Whether the Clergy were better paid, he said, Very much like other People: And being asked, Whether in the Parishes where the Tenants pay the Stipends, they do not pay them as regular as the Landlords, he said, That depends on the Humour of Tenants, whether they like the Ministers or not: But there are many Seceders, and they don't pay so well as others: And that, in most Parishes where he is acquainted, they like their Ministers, and pay them as well as the Landlords: That in an Estate where he collected the Rents, he paid the Minister beforehand: And being asked, Whether Ministers had not a Preference before others, in case of their Stipends being due, he said, They had the *Debitum Fructuum*.

Mr. Campbell, being further examined, said, That Mr. Steel, Minister of the Parish of *Dalgain* (where he lived), whose Veracity he could trust to, had complained to him, that Part of his Stipend had been in Arrear Five or Six Years; and that he had held that Conversation with Mr. Steel about a Twelvemonth ago; since the Augmentation Scheme was on foot: That he did not know whether Mr. Steel had sued for it; and that Mr. Steel did not tell him the Reason it was unpaid, or the Person's Name who had not paid him: And that he did not know, whether it proceeded from Inability, or whether there was any Dispute about it or not: That Mr. Steel lived on good Terms with his Heretors: That his Stipend is above Forty-four Pounds; and that he believes the Clergy in *Scotland* are generally as well paid as the Landlords.

Then the Petitioners produced to the Committee Copies of the Proceedings of the General Assembly of the Church of *Scotland*, in the Year 1749. and 1750. whereby it appeared, that the Petitioners were, on the 18th of *May* 1750. appointed Commissioners from the General Assembly, to apply to the King and Parliament, for the Purposes mentioned in their Petition: Which Proceedings are annexed in the Appendix, No. II.

Then the Agent for the Petitioners, in the second Petition, proceeded to answer the Evidence given by the First Petitioners; and to prove the Allegations contained in the Second Petition: And for that Purpose he insisted, that the General Assembly's Resolution of the 17th of *May* 1750. is restrained singly to the Expence occasioned by the Messengers executing the Summons:

And that, before the Union, it was not necessary, in Proceedings before the Commissioners of Teinds, to summon the Heretors by a Messenger: That the Fees appointed by Law for Messengers executing Summons were very moderate: That if they extorted larger Fees, or there were any Inconveniences in the present Method of summoning by a Messenger, the Lords of Session, as Commissioners of Teinds, had a Power to rectify it; and would, on a proper Application to them, correct the same by an Act of *Sederunt*: And the aforesaid Copies of the Proceedings of the General Assembly of the Church of *Scotland* in 1749. and 1750. which had, as aforesaid, been produced by the first Petitioners, and is intitled, *Extract Proceedings of the General Assemblies 1749. and 1750. anent the Augmentation of Ministers Stipends, mentioned in their Petition*, were read; whereby it appears, that the General Assembly in *May* 1749. appointed a Committee to consider of the Scheme for Augmentation of Ministers Stipends; who were empowered to get an Account of the just Value of all the Stipends in *Scotland*; the Extent of their Glebes; to inquire into the true Extent and State of the Tythes; and to prepare a Plan of the whole projected Augmentation, to be laid before the General Assembly: That on the 12th of *May* 1750. the Committee made their Report to the General Assembly; and thereby, among other things, reported, That in return to the Letters and Queries sent to the Presbyteries, they had received Reports concerning 780 Benefices, and other Facts respecting the Parishes these belong to; from which, together with the Account of Fifty-three Stipends more, contained in the attested Abstract from the Records of the Commission of Teinds, they had caused insert into a Book, which they had ordered to be prepared for that Purpose, a State of 833 Benefices, and other Facts relating to them, reduced to proper distinct Columns; and that, from the said Scheme-Book the Committee had caused to be drawn out an Abstract of the principal Facts which was therewith produced; from whence it appeared, that of these 833 Benefices 65 were under the present legal *Minimum* of 800 Marks, or 44 *l.* 8 *s.* 10 *d.* $\frac{2}{3}$ Sterling; and that, upon the Whole, the Plan of the projected Augmentations, which the Committee offered to the General Assembly, was first to have the *Minimum* of Stipends raised to what is above proposed; that is to say, That the *Minimum* all over *Scotland* (except in *Orkney* and *Zetland*, and the Shires of *Merse* and *Teviotdall*, where the Circumstances are somewhat special) should be Ten Chalders of Victual, or its Value, according to its usual Conversions: That in *Orkney* and *Zetland* it should be a Quantity

tity of Victual equal in Value to Ten Chalders in the Shire of *Sutherland*; or the Value in Money of such a Quantity of Victual; and that in *Merse* and *Teviotdall* it should be Ten Chalder, or its Value in Money; together with as much Money as to make up the whole Stipend to 1000 *l. Scots*, or 83 *l.* 6 *s.* 8 *d.* Sterling.

That, in case of obtaining any Addition to the legal Glebes, a proportional Deduction should be made from the Ten Chalders of Victual, or its Value.

That in Processes for Augmentations the Law might direct the Method of citing Heretors to be, summoning them at the Church-Door, by a Messenger; and the Ministers writing to non-resident Heretors, the last of which should be instructed by a Certificate under the Ministers Hands: That there may be a Law enacting, That in case the Stipend, or any Part of it, shall not be paid at the Term of *Whitsunday* or *Martinmas*, after it becomes payable; then it shall bear Interest from the Term of Payment: That the General Assembly, having, on the 17th of *May* 1750. taken the said Report into Consideration, resolved on an humble Application to be made to the King and Parliament, for the following Purposes: That in raising of Summonses for Modification, Locality, or Augmentation of Stipends, instead of the usual Method of summoning by a Messenger, it shall be sufficient, that a general Citation be made by every Parish-Clerk, from his Desk, upon a *Lord's-Day*, immediately after Divine Service in the Forenoon; and that Letters be wrote by the Moderator of the Presbytery to the absent Heretors, except such as are forth of the Kingdom, who are to be summoned by a Messenger, at the *Market-Cross* of *Edinburgh*, Pier and Shore of *Leith*: That it shall be in the Power of the Moderator, with Consent of the Presbytery, to pursue for Modification, Locality, or Augmentation, whether there be a Minister settled in the Parish, or the Parish be vacant: That Ministers Stipends, if not paid within the Year, shall bear Interest from the First Half-year after they become due: That Power be given to the Commissioners of Teinds to suppress Parishes, which they find not proper to be continued separate Parishes, and to annex them to one or more of the adjacent Parishes: That the said Commission have likewise a Power to alter the Divisions of Parishes on a View to divide them, as they see Cause: The General Assembly instructs those to be commissioned by them, most humbly to pray for Relief in the Premises, and for such further Relief as to his Majesty, and the Two Houses of Parliament, shall, in their great Wisdom, seem meet: And it was declared, by the Moderator from the Chair, to be the Mind of the Assembly, that by this last Clause

it

it was understood, that the Commissioners to Parliament might apply for an Increase of the *Minimum*.

And, in order to shew, that there is no Necessity in Proceedings before Commissioners of Teinds, to summon by Messengers, several Parts of the said Acts made in 1617. and 1633. whereby the Commissioners were empowered to summon and call the Parties before them, were read: And to prove, that the executing Process by a Messenger, is only required in civil Actions, the aforesaid Acts, No. 75. *Anno* 1540. and No. 12. *Anno* 1693. were severally read.

And then the Agent for the Second Petitioners proceeded to answer the particular Instances mentioned by the First Petitioners Witnesses.

And to shew, that the Parish of *Lundee* and *Foulis*, mentioned in Mr. *Randal's* Evidence, is above the Legal, and consequently not intitled to an Augmentation, being sufficiently provided for, the Book mentioned in the Report of the Committee to the General Assembly, commonly called, *The Scheme-Book*, was produced; by which the Value of that Living appears to be 53*l.* 6*s.* 8*d.* and the Glebe 3*l.* 6*s.* 8*d.*

And, in Answer to the Two Instances mentioned by Mr. *John Campbell*, of Mr. *Hunter*, the Minister of *New Cumlock*, and the Minister of *Cambray*, not suing for Augmentations, the said Scheme-Book was again produced; whereby it appears, that Mr. *Hunter's* Stipend is 41*l.* 13*s.* 4*d.*: And the Ministers Returns mentioned and referred to in the above-mentioned Report to the General Assembly, were also produced; whereby it appears, p. 441. that there is only one Heretor in the Parish of *New Cumlock*: And as to *Cambray*, it appears by the Scheme-Book, that the Minister's annual Stipend is 34*l.* 17*s.* 11*d.*²/₃: And by the Minister's Return, p. 641. that That Parish was formerly in the Bishoprick of the *Isles*; and that his Predecessor obtained Two Orders from the Lords of the Treasury in *Scotland*, in 1707. and 1708. on the Synod of *Argyle*, for an Increase of his Stipend out of the Bishops Rents, received by the Synod, or their Collectors; but that the Synod paid his Predecessor only 100*l.* Scots, for One Year, saying their Funds were not sufficient to answer those Orders: And as to the Parish of *Neilson*, mentioned by Mr. *Ruffel*, it appears by the Clergy's said Scheme-Book, that the Minister's Stipend in that Parish, before his Augmentation, was 64*l.* 3*s.* 8*d.*²/₃: As to the Parish of *Loquinoch*, also mentioned by Mr. *Ruffel*, the Stipend appears to be 66*l.* 13*s.* 4*d.* for which the Minister, in his Return, p. 744. owns, there has been a Decree;

creet; and that it is payable by 58 Heretors: And as to the Parish of *Inverach*, mentioned by Mr. *George Chambers*, it appears by the Clergy's said Scheme-Book, and the Minister's Return, p. 123. that the Stipend is 87*l.* 8*s.* 11*d.*¹/₄; for which he has a Decree, besides a Glebe of 7*l.* 3*s.* 9*d.*; in all, 92*l.* 2*s.* 11*d.*²/₃.

Robert Cragie, Esq; Advocate, being asked, Whether, in Augmentation Causes before the Commissioners of Teinds, by the Law of *Scotland*, it is necessary that a Summons should be served by a Messenger, declared it as his Opinion, That the Commission for Plantation of Kirks, and Valuation of Teinds, first appointed by the Act of Parliament 1633. was not, in his Opinion, a Court of Law; but a Commission appointed by Parliament for executing certain Things, that were then introduced into the Law of *Scotland*, with relation to Teinds: First, That they should value all the Teinds of the Nation, with a few Exceptions: Secondly, That when the Teinds were so valued, they should allocate a Stipend to the Minister of every Parish out of the Teinds of his Parish: Thirdly, That they should settle an Annuity, payable to the King, out of the surplus Teinds: And, Fourthly, That they should sell the remaining surplus Teinds to every respective Heretor: That it was committed by Parliament to this Commission, to execute those several Powers, according to such Rules as they should lay down: And the Rules and Ordinances made by them are declared to have the Strength of an Act of Parliament: That, pursuant to those Powers, the Commissioners appointed Sub-Commissioners in every Presbytery, to whom they gave certain Rules and Directions; and those Sub-Commissioners stated the Rate of the Teinds, as they appeared to them by the Oaths of the Heretors, or by a Proof by the Titular; and, failing both those, by a Proof brought at the Suit of the Procurator Fiscal: That the Value of the Teinds so settled by the Sub-Commissioners was reported to the High Commission: And he has seen Instances, where the High Commission, upon those Reports, without summoning any Parties, valued the Teinds, or approved of their Reports, and modified a Stipend to the Minister of the Parish, without any Summons whatsoever: That no Messenger was employed before the Sub-Commissioners; and, so far as he knows, in these Cases, before the High Commission: That the after Commissioners were vested with the same Powers, down till some time after 1661.: But from that Period, there is no mention of their Power of receiving Reports from Sub-Commissioners: But it does not appear, that their Powers were abridged with respect to the Method of summoning Parties before

fore them, or any thing that seems to purport, that they became an ordinary Civil Court, and ceased to be a Commission of Parliament, similar to that in 1633.: And understood, that the Method of summoning Parties before the Commission, downwards till the Union, depended upon the Rules settled by the respective Commissioners: And when the Powers of the Commission were vested in the Court of Session in 1707. he considered the Court as vested with the same Right of directing the Summonses before them: At the same time it hath not occur'd in his Practice, since the Union, to observe any Summons, of whatever kind, executed before that Court, except by Messengers at Arms: But at the same time, it is his humble Opinion, that the Court of Session has the same Powers by that Act, that the former Commissioners of Parliament had; and that he apprehended the Court of Session, as Commission of Teinds, have a Power to regulate any Officers, employed in executing Procefs before their Court, and to settle their Fees, in case they shall be complained of as exorbitant.

Being cross-examin'd, he said, He could not tell, whether Summonses to appear before the Commission of Teinds always pass the Signet; and that he did not consider a Procefs of Augmentation as a Civil Action; and that Summonses have been executed, as far as falls within his Knowledge, since the Union, according to the Directions of the Act of 1540. either personally, or at the Dwelling-house: That a Decree can go against no Party but who is summoned as a Defender, and a Party; but, in a Procefs of Modification, a Party may be call'd by an incident Diligence, and a Decree will go against him, as if he had been summoned as a principal Party: And that he will add another Specialty on this Head; That it is a Rule in Civil Actions, that a Decree is void, if it is *ultra petita*, i. e. beyond the Pursuer's Libel; but has known the present Commission give a Stipend higher than was claim'd by the Minister in his Libel, and consider'd it as within their Power, as they were not Judges in a Civil Action, but still Commissioners for providing for the Ministers, as they should think fit, without any Dependence upon his Claiming, or his Libel. And, being ask'd, Whether the Twelfth Act in the Year 1693. which directs certain Proceffes to be executed by Messengers at Arms, did not extend to all Summonses before the Commissioners of Teinds; he said, He thought it did not; and thinks, the Lords of Session, as Commissioners of Teinds, can alter their Acts of *Sederunt*; though he knows no Instance of it; and that it never appear'd to him, upon looking
into

into former Decrees, That there was any particular Rule settled for summoning by the Commissioners of Teinds; and remembers to have seen some Summonses executed by a Sheriff or Officer in that Part; and that he had seen some Proceedings before the Union, which appear to him not to have been executed by a Messenger, but by another Officer appointed by the Commissioners; but can't recollect any Cases, at that time, where it was said to be served by a Messenger at Arms.

And, being ask'd, Whether it was not the frequent Practice before the Union, that the Modification and Augmentation of Stipends proceeded by way of Action, Plaintiff and Defendant; he said, He had seen it so, and seen it otherwise; and said, That upon those Decrees of the Commissioners, before the Union, the Minister had the Procefs of Law for the Recovery of the Stipend, and that they were equally effectual; and he has seen where they have given them Grass and Glebe, which they had no Title to do; but don't know any Instance, since the Union, where the Court of Session, as Commissioners of Teinds, have made a Decree of Modification or Augmentation, without a Procefs, or Suit of the Minister: And he said, That the incident Diligence is executed against the Party in the same way as the original Summons.

And being ask'd, What was the Difference between a Procefs and a Decree by the Commissioners of Teinds for Modification, &c. obtained by a Minister, and any other Civil Action; he said, He consider'd them as still having a Power, if they thought fit, to modify a Stipend without an Action, and to give a higher Stipend than the Minister craves by his Action; and does not think, that the Power of this Commission is gone into Disuse, but that they have a Power to resume it; and he does not know any Instance in his Practice, where the Commission has regulated the Expences.

He further added, That he believ'd a Method might be devised to make Proceffes for Stipends less expensive; but it would require a good deal of Deliberation and Knowledge in the Procefs of that Court to bring it about, particularly by Summoning from the Desk; and he wishes it was so: But thinks, it is in the Power of the Court to establish that short Way of Summoning, without the Aid of Parliament: And said, It is not the Practice to give Costs in the Actions at the Suits of Ministers for Augmentations.

Being ask'd the Question, he said, That, by a general Valuation of Tythes, he meant, That a Plan was laid down for an
universal

universal Valuation of all Teinds by the Authority of the Commission of Surrenders, and the Commission in 1633. without any particular Application by the Heretors of the Lands, or the Titular of the Teinds, by Commissions directed to several Sub-Commissioners in every particular Presbytery; and, according to his Belief, those Commissions were directed to all the Presbyteries in the Nation; and that the Sub-Commissioners for the Presbyteries execute their respective Commissions; though he cannot say, that they either executed the Commissions, as to the whole Lands under their respective Commissions, without Exception, or that the Sub-Commissioners reported their Procedure to the High Commission; and therefore he used the Expression General, and not Universal, because he believes the most Part of the Teinds in *Scotland* were valued: And that his Reason for such Belief was, That he had seen Sub-Commissions directed to many Presbyteries in all Parts of the Nation; which makes him believe, that the like Commissions were directed to the other Presbyteries as the Plan laid down by the Commissioners of Surrenders, and the Commission in 1633. was Universal: That he believes, that since the Year 1702. the Rents in many Parts of *Scotland* have been raised; and that many of the Heretors of *Scotland* had neglected or omitted to value their Tythes to this Day, because they were in hopes of recovering the Evidences of former Valuations.

That the Commission of Teinds since 1633. are confined to such Teinds as then remain'd unvalued; and if there is Evidence of the Teinds being once valued, they are not liable, in case of Improvement, to a second Valuation.

Mr. *Andrew Chalmer*, being examined, acquainted the Committee, That he had receiv'd from the Clerk of the General Assembly, *George Wisbart*, under his Hand, Copies of the Returns with relation to the Stipends of 832 Parishes in *Scotland*; and had from Mr. *Williamson*, Clerk to the Commission of Teinds, an attested Abstract of the Stipends settled for 343 Parishes in *Scotland*, of which 46 were such as were not mention'd in the Returns of the Ministers; both which Numbers make 878: That he had seen the Scheme-Book, said to be made by the Commissioners of the General Assembly from the same Materials, and finds the Stipends of just 75 of those 878 Parishes stated as below 44*l.* 8*s.* 10*d.* $\frac{2}{3}$, which is the Legal. And he deliver'd in a List of those 75 Parishes, and their several Stipends, which is annexed in the Appendix, No. III.

And

And being ask'd, Whether there were any of those 75 Stipends, which, although mention'd in the Scheme-Book to be below the Legal, on comparing them with the Returns, appear'd to be above the Legal; he said, Before he saw the Committee's Scheme-Book, he knew what was the Number of Parishes, and the Stipends annexed to them; and that, on comparing them with the Returns of the particular Ministers, with Mr. *Williamson's* afore-said Abstract, and with the Records themselves, of which it was supposed to be a true Abstract, by that Comparison he found there were 18 of the 75 mis-stated, as under the Legal, when, in fact, they were above it; and that he had drawn out from those Vouchers what relates to the whole 75; for which he refers to the said Paper he deliver'd in to your Committee, and annexed in the Appendix, No. III.

And being ask'd, Whether any of those 75 Stipends had been settled by the Commission of Teinds, or Lords of Session, since the Year 1633.; he said, Several of them had; for the Particulars of which he referred to the said Paper; and that several of those 75 Ministers are in Possession of full Tythes; for the Particulars of which he also referred to his said Paper; and said, That there are only 15 of those 75 Parishes, which, in his Opinion, don't fall under some of those Three Distinctions; and that the Number of Heretors in 10 of those 15 Parishes is 31 in all.

Being ask'd the Number of Parishes in *Scotland*; he said, There are 944 Ministers, as he has good Reason to believe; and that some Parishes have more Ministers than One; particularly, that in the Seven Collegiate Churches in *Edinburgh* there are Two Ministers to a Church.

That he knows Instances from the Acts of the Assembly, printed by Authority, that within these Ten Years past the Assembly have ordered several Sums for carrying on and paying the Expence of Processes for Augmentation: And he deliver'd in an Extract of those Instances; which is as follows:

H

Excerpts

Excerpts from the Acts of the General Assembly of the Church of Scotland, printed at Edinburgh by Authority, with regard to the Assistance given to Ministers for prosecuting Suits for Stipends, in the Ten Years last past.

Anno 1741. The former Orders for carrying on Processes for Stipends to the Ministers of *Kilmalie* and *Ardnamurchan*, renewed.

The Orders of former Assemblies for defraying the Expences of Processes for Settlement of the Stipend of the Minister of *Aboyn* and *Glentanner*, renewed.

Anno 1742. A Process of Modification and Locality of the Stipend of the Minister of *Kilmalie* appointed to be carried on at the Church's Expence.

Anno 1743. The Procurator for the Church appointed to pay Ten Pounds Eleven Shillings and Six-pence Sterling to the Widow of Mr. *James Laury*, Minister at *Benvie*, disbursed by him in procuring an Augmentation to his Stipend.

Anno 1744. The Procurator and Agents for the Church appointed to carry on the needful Processes at the publick Charge, for obtaining a legal Stipend to the Minister of the united Parishes of *Tarland* and *Migvie*.

The former Orders for carrying on a Process for Augmentation of a Stipend to the Minister of *Kildalton* in *Islay*, renewed.

Anno 1745. The former Orders for carrying on the necessary Processes for Stipend to the Minister of *Tarland* and *Migvie*, at the Church's Expence, renewed.

Anno 1746. Order for Payment 10 l. 11 s. 6 d. to Mr. *George Blair*, late Minister of *Abernyte*, on account of Money depurged in procuring an Augmentation of his Stipend.

Anno 1747. A Sum, not exceeding 15 l. Sterling, of the Church's Money, allowed for defraying the Expence of a Process depending for a Stipend to the Minister of *Trinity Gask*.

The Sum of 5 l. Sterling allowed as a Help to defray the Expence of a Process for a Stipend to the Minister of *Preston* and *Buncle*, besides the Dues of extracting a Decreet.

The Procurator and Agent appointed to carry on a Process for obtaining a competent Stipend for the Parish of *Delting*.

Anno 1748. A Sum, not exceeding 10 l. Sterling, of the Church's Money, allowed for defraying the Expence of a Process depending for Stipend to the Minister of *Trinity Gask*.

A Sum, not exceeding 10 l. Sterling, for said Use, to the Minister of *Buncle* and *Preston*.

Anno 1750. The Expences of a Process for a Stipend to the Minister of *Ardnamurchan*, ordered to be paid out of the Church's publick Money.

“ The Procurator and Agents, appointed at the publick Charge to carry on Two Processes for the Minister of *Cushney*.

“ The Procurator and Agents appointed at the publick Charges to carry on the necessary Process for obtaining a competent Stipend to the Minister of the united Parishes of *Walls*, *Sandness*, *Papaistor*, and *Fowla*.”

Being cross-examined, he was asked, Whether he was not employed in this Affair? He said, he was; but did not come expressly to *London* for it.

Being asked, in regard to the Funds belonging to the General Assembly; he said, They received a Sum of 125 l. quarterly, as far as he remembers, for defraying the Charge of Church-Affairs; but did not know how this 125 l. a Quarter was disposed of.

Being asked, Whether he had not been employed in *Scotland* to apply to the proper Officers of the Assembly for a Sight of the Minister's Returns, and Scheme-Book? he said, He was; and that they refused him a Copy, or any Inspection of the Scheme-Book.

Being asked, Whether Mr. *Williamson's* List of 343 Stipends was composed of Stipends settled since the Union? he said, They were wholly so; the List is attested by Mr. *Williamson*; and that Paper is an Abstract of all the Stipends settled on Ministers since the Union; and the Number in that Period, as marked on the Abstract, is 343: That he looked on the Records from the Union till some time in the Year 1738. the Records being no further brought up at this Time; and, to the best of his Remembrance, found Two or Three Stipends, settled by Records, which were omitted in that Abstract; and Two of the 343 are twice stated.

Being asked, Whether he knew how many of the Stipends in *Scotland* were settled by Decrets, either of the old Commissions, or the Lords of Session? he said, He had already answered, as to all since the Union; and as to what were before that, there were very few Decrets upon Record; and that he could not tell the Number: And as to the others, he knew nothing but from the Ministers own Returns: That he understood the Records before *Oliver Cromwell's* Time were lost, and the Records till 1702. were burnt by an accidental Fire.

Being asked, Whether, in their Returns, the Ministers don't tell who have a Decreet, and who have not? he said, He had examined them, but had not classed them who have Decreets, and who not; and he does not remember the Number: But that, in general, many of the Ministers mentioned their having old Decreets, or Hornings upon them. Many say, they had not, nor ever heard of any Decreets for their Parish; and some, he thinks, are entirely silent on that Point: That he cannot remember how many have not Decreets, but that they are in his Book; and has observed, in his Searches, some Instances of Ministers who have got Augmentations, notwithstanding their Stipends were above the Eight Chalder: And he thinks it useful, supposing a Minister has Ten Chalder, and no Decreet, to have a Decreet of Modification, that he may have Summary Horning; and thinks, the Commission of Teinds would not refuse a Decreet to a Person that has none. And as to the Expence of summoning, and other Proceedings in Augmentation-Causes, and to prove, that the Lords of Session, as Commissioners of Teinds, have since the Union, by Acts of *Sederunt*, settled the Fees of their Officers; he produced a printed Book, intituled, "The Form of Process before the Lords of Council and Session, observed in Advocations, ordinary Actions, and "Suspensions," &c. printed at *Edinburgh* 1718. written for the "Use of the Students in *Spotiswood's* College of Law, by *John Spotiswood*, of that Ilk, Advocate;" in which there are Two Acts of *Sederunt* of the Lords of Session, as Commissioners of Teinds; the first dated 17th *November* 1708. the other 22d *December* 1708. relating to those Fees: And said, He had compared the Book with the authentick Record, with which it agrees; Copies of which Two Acts of *Sederunt* are annexed in the Appendix, No III. And he apprehends, the Lords of Session, upon Complaint of any Fees being exorbitant, have a Power to reduce them, without they are settled by Act of Parliament; and that they surely do make Regulations, in relation to Fees.

And being asked, Whether the Court of Session had ever, to his Knowledge, refused to lessen or regulate the Fees complained of, at the Request of the Clergy? he said, He never heard the Clergy made any Application for that Purpose; nor does he think the Fees at this time are lessened, but, on the contrary, greatly increased; because the whole Fee, there set down for the Clerk, are taken as Fees for the principal Clerk; and other additional Fees are taken for a Deputy named by him, and another Officer, named an Extractor: But that he never heard there was any Law to justify that Practice; and that nothing is necessary to stop it, but for
Persons

Persons to refuse to pay it: And that he does not know whether the Clergy submit to those Exactions; but he has done it often for the Laity: And he thinks an Application to the Lords of Session, for Redress in these Particulars, would be cheaper than an Application to Parliament; but those Regulations only concern the Clerk and Mace-bearer.

That he knows of no Fees allowed by Law for Extractors in the Court of Tythes; and that he thinks the Fees are the same, whether the Decree is Four Sheets, or Four Quires: But that the Regulation, with regard to Extracts, is, that a Clergyman pays Two Thirds of what a Layman pays. And as to the Expence of summoning in an Augmentation-Cause, where there is only One Heretor, the customary Fee for a Messenger, for every Summons (and he knows no Difference between Summons in Augmentation-Causes and others), is One Shilling, tho' he lived at the Messenger's Door; and if the Messenger has any Distance to travel, he gets from 1s. to 20d. a Mile, as the Party can agree with him: And, in his Practice, he never found a Difficulty in getting a Messenger in the most distant Parts of *Scotland*, except the Island of *Orkney*, *Zetland*, and the other Islands; where there are great Difficulties in getting Messengers: And that it is customary, where there are many Heretors to serve, to agree with the Messenger by the Lump; in which Case, he will sometimes give an Abatement even of the 1s. a Mile.

And further said, That he had got One Summons completely executed for 1s.; and that he had, in another Case, paid 10d.; but can't give any Reason for that extraordinary Difference, as it depends upon an Infinity of Circumstances; and that he could not tell the Number of Persons summoned in that Suit; but said, they lived in different Places.

And being asked, If there are not a great Number of Landholders in some Parishes? he said, There are in several Parishes, but not so many as he supposed before he saw the Ministers own Evidence.

And being asked, What was the Method of Proceedings in Augmentation-Causes? he gave the following Account of it, and of the Expence of a Suit for settling a Stipend to a Minister in *Scotland*; which, he said, he knew, by the Records of the Court, to be the Routin of the Cause; which was read, and is as follows:

Memoir for giving a View of the Expence of a Suit for settling a Stipend to a Minister in Scotland.

The Minister gets from the Clerk of the Commission Court, and under his Majesty's Signet, a Summons, which is a Warrant for citing every Person interested, to appear, and answer to his Suit; and the established Fees of such Summons, for the Clerk and Signet, are 3 s. 4 d. Sterling.

This must be executed personally, or at the Places of their Residence, against all the Persons interested, who are, and at the Cross of *Edinburgh*, and Pier and Shore of *Leith*, against such of them as are not, within *Scotland*. The Expence of the last-mentioned Citation is a Shilling; and that of the other Citations must depend on the Number of Persons to be cited, and the Distances which the Executor has to travel for serving them. The most customary Fee is, a Shilling *per* Mile; but where the Distance is any thing considerable, or a good deal to do, some Abatement is usually stipulated, and given, upon the Whole.

The Summons being served, the Minister's Libel, setting forth the Foundation and Demand of his Suit, is framed, by any Practiser about the Court: And as it is a Matter of mere Stile or Form, and generally does not exceed Two Sheets of Paper; a Crown, or Three Half Crowns, is the highest Fee that could be demanded for it; and rather higher than is usually given.

To bring the Action into Judgment, this Summons must be called, and enrolled; for which the Clerk and Mace-bearer have established Fees, amounting to Nine Shillings and Two-pence Sterling.

For ordinary, every thing that is to be done by Counsel, on the Part of the Minister, in such a Suit, is of the Nature of a Motion, in Course or Form; and for Things of that kind, Counsel in *Scotland* do not expect, and very rarely get, any Fees, either in the Commission-Court, or Court of Session: Sometimes, indeed, when a Suit, which may require sundry such Motions, comes first in, there is a Fee of One Guinea given to a Counsel, with 5 s. 6 s. or 8 s. 6 d. to his Clerk or Clerks, and Servant.

One Point, necessary to be laid in the Minister's Libel, is, "That there is a sufficient Fund of Tythes, in his Parish, to afford him the Stipend he demands;" and for making out this, he sets forth the Rental of each Heretor's Estate in Grain or Money.—If all the Heretors are of Age, and capable of swearing to the Fact, and
none

none of them contests it; they are all held as confessing, That their Tythable Rentals are as set forth; and the Court will thereupon proceed to modify a Stipend to the Minister; that is, to settle and ascertain how much of the Tythe he shall have for his Stipend.—But if any of the Heretors say, that the Rental is not fairly stated, or if there be amongst them Minors, or other Persons, who are not capable of an Oath, or who cannot be supposed to know the Facts; the Minister must then undertake a Proof of his Allegations, by Reference to the Oaths of the proper Parties, or by Witnesses.

In order to the Minister's getting at this Proof, he must extract an Act: The Fee for this is Four Shillings One Penny and a Third Part of a Penny Sterling; *per* Sheet; and if no extraordinary Litigation has previously happened, this Act cannot well exceed Four or Five Sheets.—If the Proof is to be wholly by Oaths of Parties, the Minister, upon calling his Act (the Fees of which are Four Shillings and Six-pence Sterling), directly gets at his Proof, either by the Parties Oaths, or by the Court's holding them as confessing the Rent alleged by him: And the Court may then proceed to modify his Stipend.—But if the Proof depends wholly, or in part, upon Witnesses, there is generally, in the Act, a Commission for examining them in the Neighbourhood of the Lands (which will add a Sheet to the Length, or Four Shillings and Two-pence to the Fees of the Act); and then, besides extracting it, the Minister must have a Diligence, *i. e.* a Writ, under the Signet, for citing the Witnesses to appear; which may be got for Seven Shillings, and may stand Twelve Shillings, as it is comprehended in One Sheet, or extended to Two (which last it can rarely exceed).—The Expence of serving this Writ upon the Witnesses depends on their Number, and Distance from a Messenger (as has been already said with respect to the serving of the original Summons); and that of taking their Examinations depends on the Distance which they may have to travel for that Purpose, the Time it requires, the Entertainment on the Occasion, and the paying or not paying Fees to the Commissioner, and his Clerk; of all which, no general Computation can possibly be made.—When the Proofs, thus taken, are reported to the Court, the Minister, besides the above-mentioned 4 s. 6 d. for calling his Act, has 4 s. to pay of Fees, for each Witness sworn.—And the Court may then proceed to modify the Stipend.

If the necessary Witnesses do not appear on the first Writ, this will retard the Suit, but will not increase the Expence on the Minister's Part; because, though he must take out a second Writ, a
Capias,

Capias, against the Defaulters, at the Cost of 7*s.* or 12*s.* this liberates him from all the Charges of the Execution of the Commission, and of the Attendance of the Witnesses: For, in that Case, they must either appear in Court, or take out a new Commission (if the Court will indulge them one), and execute and report it, all at their own Costs.

After Proofs, with respect to the Rental, are concluded in one or other of the Ways aforesaid, there are certain Steps of Form (called Inrolling, in the Roll of Causes to be prepared; Preparing and Inrolling, in the Roll of concluded Causes), which must be gone through before the Court pronounces Decree, modifying the Stipend; and, these being over, such Decree immediately follows. The Expence of these Steps of Form may be only 15*s.* and cannot exceed 20*s.* and the Fees for an Extract of the Decree are settled at 2*l.* 3*s.* 4*d.* Sterling.

Here the Minister's Concern in the Suit is at an End: For tho' a Summons for an original Settlement, or Augmentation of Stipend, in any Parish that belongs to Two or more Heretors, usually contains also a Conclusion or Demand, That the Stipend should be localled by the Court, *i. e.* that the Court should settle or ascertain what Part of the Stipend each Heretor shall pay; and the settling of that frequently gives Occasion to long and intricate Litigations among the Heretors; the Minister is intitled, by force of the Decree modifying his Stipend, to levy the full Fifth Part of every Heretor's Estate, till the Stipend is made up; and to continue so to do, until the Heretors put into his Hands a Decree localling it amongst them.

This is the State of the Routin of a Minister's Suit for Stipend in the general; and where no litigious Proceedings, or extraordinary Accidents, happen while the Part of it which properly concerns him is in Dependence.—The Death of a Defendant, during that Period, will occasion an Expence of 7*s.* for a Writ of Incident Diligence; and a Messenger's Fee for serving it on his Representative, and some other Things of that kind, may occur.—As to litigious Proceedings, where-ever there is a Necessity for a Counsel's arguing, or drawing Papers, on Behalf of the Minister, which will not only require Fees to him, but give Rise to other Fees and Expences; that must proceed either from the Minister's insisting upon something material to the Issue, or concerning the Extent, or other Circumstances, of his Parish, which those interested deny; or from his demanding something as his Right which they contend not to be so. And with regard to all Expence occasioned by such Litigations, it is competent to either Party, pending

ing the Suit, to insist for Indemnification thereof against the other; and if the Court is of Opinion, that the Case deserves it, they do award it by an Interim Order: When such Indemnification is not asked, it is presumed to be from a Sense, in the Parties, that the Matter or Point contested was so doubtful, as to make both excusable for contesting it; and that the Court would refuse it on that Ground, as is the ordinary and usual Course of proceeding in Questions of that kind.

What is stated above, with regard to the Fees for Summons, calling and inrolling of it, Extracts of Act, or Act and Commission, Diligences and Decree, calling the Act, Oaths of Witnesses, and inrolling and preparing Causes, is agreeable to the Regulations established by Two Acts of *Sederunt*, Anno 1708. still in Force: And they are observed strictly, to this Day, with respect to the Mace-bearer's Fees, and also as to the Clerk's Fees; with this Explanation, by customary Practice, That the Full of them are taken as Fees to the principal Clerk; and other and additional Fees are demanded and taken by certain other Officers of his creating, under the Names of Clerk-deput, and Extractors, for some of those Services, for which he has established Fees; and these run sometimes, particularly on Extracts of Decrees, if long, as high as, or higher than, the Fees established for the Clerk by the Regulations of Court.—And then, as the Person who manages as Solicitor for the Minister is intitled to a Gratification, for his Trouble—these Things occasion, that, in fact, these Suits and Decrees, as well as all others, are made more expensive to Parties concerned, than the Law has provided they should be.

The said Mr. *Chalmer* being asked, Whether, when any Heretor is a Minor, the Minister is not put to the Expence of proving the Rental of his Estate? he said, He was, not only in that, but in several other Cases.

Being asked, If he had ever heard any Complaint made of the Rates which he said were usually paid to the Messengers being exorbitant? he said, That he had heard there lately was an Application to the Lords of Session, and some Proceedings in relation to the Fees of Messengers; but never had Occasion to see the Particulars, or to know what was done upon it. Being asked, If the Clergy should be allowed the new Method of Summoning proposed in the Resolution of the Assembly 1750. it would be an Ease and Relief to them in the Expence of their Law-suits? he said, In some Cases it would, and in others it would not: And that it would not, in the Case where the Heretors were out of the Kingdom, or any of them Minors; but, in other Cases, he believes,

lieves, and makes no doubt, it would. And he said, That the summoning from the Desk, in the Laity's Suits, would be an equal Ease to them; and that they sometimes have Occasion to sue Forty or Fifty People at one Time, which is very far from being generally the Case of the Clergy, when a Minister sues for an Augmentation of his Stipend. And being asked, Whether he thought a Process of Modification, or Augmentation, to be an Action? he said, He knew no Difference between the Words Process and Action, in their Way of speaking. And being asked, Whether, when an Augmentation was carrying on before the Commissioners of Teinds, before the Union, he esteemed that a summary Proceeding before Commissioners, or a Civil Suit, or Action? he said, He had been used to think even those Proceedings Actions, tho' he knew, by the Records, that many such Processes came before that Commission, in its earliest Times, without the Citation of any Parties to it, but upon Reports from their Sub-commissioners. And he said, He knew no other Reason for calling a Proceeding before Parliamentary Commissioners, without any Writ or Citation, a Civil Action, but that he has been used to think so, and hear it talked of as such. Being asked, Whether, in Process of Augmentation or Modification, the Pursuer or Minister gets any Costs of Suit? he said, They did not, if there is nothing but the ordinary Proceedings in such a Cause; but that he has observed, from Record, Instances wherein the Court has given Interim Costs to the Minister, and when they have appointed the Heretors to extract his Decree at their own Expence; and has not seen many Decrees, upon Record, of the Commissioners of Tythes, before the Union, where there was not a Pursuer under Citation of the Defendants; but, as far as he can recollect, the Form was by Summons and Citation, after 1637. And further added, That if the Court of Session should continue, upon Application, to increase the Stipend of Ministers which are already above the *Minimum*; he had no Doubt, but the summoning from the Desk, proposed by the Clergy, will prove a very great Grievance: And one of his Reasons for thinking it would be so, was, that the Processes of Augmentation would be more frequent, even where Ministers had the Legal, in case the Method of summoning was cheaper; and that it would render the Certainty of Notice intirely precarious: And if a Heretor's Relief against a Decree depended upon the Objection of want of Notice, it makes the Pursuer himself the Evidence, as to the Fact, or low People dependent upon him, who are not under Bail, or Security, to answer the Consequences, as Messengers are. And being asked the Question? he said, He could

could not recollect any other Grievances, that would attend that Practice. Being asked, Whether, in summoning, in Augmentation Causes, before the Commissioners of Teinds, it is necessary to be served by a Messenger, or by any Person the Pursuer pleases to employ; he said, He had Reason to think that, ever since the Union, the Custom has been to execute these Summonses by a Messenger; but that he, the Witness, is no Judge whether it is necessary still to be done so, or if the Court can alter the Form; but that he has seen, from the practical Books, wrote on that Subject, the Summonses, before the Parliamentary Commission, were directed to, and might be executed by, any Person employed by the Pursuer.

Being cross-examined, he said, That the Direction of Letters, under the Signet, is to Messengers at Arms, or Sheriffs; and it is understood, they must be executed by Messengers; and that he believes, the Judges would not sustain an Execution from any other Person than a Messenger, as the Practice has been so for a long time, without some new Law or Regulation were first made; but that he understands it to be in the Power of the Court to regulate the Forms of Summoning, except where they are committed by Statute.—And being asked, Whether he knows any Statute, that expressly limits Summonses in Processes before the Commission of Teinds to be executed by a Messenger, he said, He does not, at present, recollect whether there is any thing particular in the Statutes relative to that Point, but thinks there is not. And being further asked, Whether it will not give a Power to the Clergy to harass the Laity by calling them before the Court of Session, whenever they think proper, he said, He thought it would give them no more Power than they have already. And being further examined, said, That he had examined the Records of all the Decrees of the Court of Session, since the Union, to the Year 1738. relating to the Augmentation of Ministers Stipends; and that he does not know any Instance, or find any one upon Record, wherein the Court of Session have augmented any Living within that Period, which had before obtained a Decree of Modification.

Robert Cragie, Esquire, being further examined, was asked, Whether, by the Laws of *Scotland*, made before the Union, and now in Force, very sufficient and ample Provision is not made for the Maintenance of Ministers, the Augmentation of Stipends, and the due Payment thereof: He said, That, in his Opinion, there is,

is, as he has particularly mentioned in a former Examination, to which he refers; and added, That he cannot discover that ever the Presbyterian Clergy made any Complaints to Parliament, on either of those Heads, before the present Application: That all the new Provisions, made in favour of Ministers Stipends, by the Parliament of *Scotland*, were made upon Application of the Episcopal Clergy; and he believes, That the Moderation of the Presbyterian Clergy, in this Particular, have contributed not a little to establish them in the Affections of the People, which, by the Claim of Right made by the States of *Scotland* at the Revolution, and the Acts of Parliament made in consequence thereof, is declared to be one chief Ground of re-establishing Presbytery in *Scotland*. And, being further examined, was asked, Whether, since the Union, the Heretors, in Augmentation-Suits, have not been frequently under Difficulties in proving their Defences: That the Teinds have been before valued, or the Stipends before modified, by reason that the Records of the Commissioners of Teinds, antecedent to the Reign of King *Charles* the Second, were lost by Shipwreck; and those, from that time to 1722. were consumed by Fire: He answered, That they had, because there was a general Valuation of the Teinds soon after 1633.; and those Records were carried to *London* some time after the Year 1650. and great Part of them were lost by Shipwreck, in their Return to *Scotland*, after the Restoration; and the burning of the Records of the Commission in 1702. destroyed the Evidence of the other Valuations, that had passed down to that time; and that by the same Accidents the Decrees of Modification and Locality, in favour of the Ministers, were lost; and this occasions a great Inequality among Heretors, where some of them have Extracts of their Decrees of Valuation led soon after 1633. at the then Value of the Lands; and which Extracts are, by Act of Parliament, made equal to the original Valuation in the Records; and the other Heretors are liable in Teinds, according to the present Value of their Lands: Being asked, Whether, in Suits that shall be brought for the future, for the same Purposes, they will not be liable to the same Difficulties; he said, They would. Being further asked, Whether the Commission of Teinds, and the Alteration of *Minimum*, established in 1633. was merely the Act of the Legislature, or any-ways, and how, the Effects of a Compromise; he said, That by the Acts of Parliament, in 1617. and 1621. for Plantation of Kirks, a Parliamentary Right was given to all those who held Teinds

Teinds in their Grants from the Crown, or under any other lawful Title; but upon King *Charles* the First's Accession to the Throne, he was advised to publish a Proclamation, annulling those Acts of Parliament, and reassuming the Teinds, as belonging to the Crown: This occasioned great Jealousies in *Scotland*; and the Crown thereupon issued a Commission to several Noblemen and Gentlemen, which was called, The Commission of Surrenders and Teinds: This Commission made several Regulations with respect to the Teinds, and particularly with respect to the *Minimum* Ministers Stipends; and they procured Submissions to the King by several Titulars, having Right to the Teinds of other Heretors Lands, whereby they submitted themselves to the King, and to an Award to be pronounced by his Majesty, touching the Teinds of other Mens Lands: That the King accordingly pronounced several Awards or Decrees Arbitral, touching the Matters submitted to his Majesty, and those Ordinances for the Commissioners for Surrenders, and the Awards pronounced by his Majesty, established by several Acts of Parliament, in 1633. Being asked the Question, he said, That, when he mentioned the Practice of not giving Costs in the Suit of Ministers, he meant only Suits for modifying Stipends, and not for the Payment of Arrears of Stipend. Being asked, What he meant by a general Valuation of Teinds, he said, That a Plan was laid down for a general Valuation of all Teinds, by the Authority of the Commission of Surrenders, and the Commission in 1633. without any particular Application by the Heretors of the Lands, or the Titular of the Teinds, by Commissions directed to the several Sub-commissioners, in every particular Presbytery; and, according to his Belief, these Commissions were directed to all the Presbyteries in the Nation; and that the Sub-commissioners for the Presbyteries execute their respective Commissions, though he can't say, that they either executed the Commissions as to the whole Lands, under their respective Commissions, without Exception, or that the Sub-commissioners reported their Procedure to the High Commission; and therefore he used the Expression General, and not Universal, because he believes the most Part of the Teinds in *Scotland* were valued: And that his Reason for such Belief was, That he had seen Sub-commissions directed to many Presbyteries, in all the Parts of the Nation; which made him believe, that the like Commissions were directed to the other Presbyteries, as the Plan laid down to the Commissioners of Surrenders, and the Commission in 1633. was universal.

L

Being

Being asked the Question, he said, That he believes, That, since the Year 1702. the Rents in many Parts of *Scotland* have been raised; and that many of the Heretors have neglected or omitted to value their Teinds to this Day, because they were in Hopes of recovering the Evidences of former Valuations.

He further said, That the Commission of Teinds, since 1633. is confined to such Teinds as then remained unvalued; and if there is any Evidence of the Teinds being once valued, they are not liable, in case of Improvement, to a Second Valuation.

Mr. *Chalmer* further said, That he had been informed, by *George Buchan*, Clerk of the Commissioners of Teinds, That Processes are now instituted, and carrying on, before the Court of Session, as Commissioners of Teinds, in relation to the Stipends of the Parish of *Eckford*, and of the united Parishes of *Cropt-Burness*, and *North Rondald*; say, Two of the Fifteen Parishes above-mentioned to be under the legal; the Stipend of the First of which is 43*l.* 6*s.* 8*d.* besides some small Tythes; and he does not know the Value of the Glebe; that the Stipend of the Second is 40*l.* 5*s.* 6*d.* besides the Glebe, which is 5*l.* 17*s.* 2*d.* but can't say, that he has a House; and refers, for the other Particulars of the Question, to the Accounts of the Ministers themselves, from which he took his Paper, set forth in the Appendix, N^o III.

Then the Agent for the Second Petitioners delivered in to the Committee an Abstract of Mr. *Chalmer's* said Paper or List of 75 Stipends, stated by the Clergy's Scheme Book to be under 44*l.* 8*s.* 10*d.*; whereby it appears, that the first 18 of those 75 Stipends are above that Value; that the Stipends of 30 others of the said 75 Stipends appear to have been modified and fixed by Decrees of the Commissioners of Teinds, and Lords of Session: And that, in Ten others of the said Parishes, it appears, the Ministers have the full Tythes of their respective Parishes; and that it thereby appears, that 60 of the said 75 Stipends cannot be affected by the present Question; which Abstract is annexed in the said Appendix, N^o III. And in Proof of the Facts therein stated, the Entries in the Clergy's Scheme-Book, and the Ministers Returns, relating to the said 75 Parishes, were produced, and read. Being asked, Whether, on his Perusal of the Scheme-Book, and the Committee's Reports to the General Assembly, it appeared, That the Facts therein stated are warranted by the Ministers Returns, and Mr. *Williamson's* Abstract, from which they

they are said to be prepared and drawn; he said, He could not speak to the Comparison between the Ministers Returns and the Reports, because the Facts in the Report are not specially stated; but he could speak to the Comparison between the Ministers Returns and the Scheme-Book; and that the Paper he had delivered in, intituled, The List of 75 Livings, which is annexed in the Appendix, as aforesaid, contains 26 Instances of Differences between the Returns and the Scheme-Book; and he has a Paper which contains 69 Differences more: And he delivered in the said Paper, which is annexed in the Appendix, N^o III. That, having perused the Committee's Report, Scheme-Book, and Ministers Returns, he does not think they contain a true State; and has given 95 Instances in which it is wrong, in regard to the Article of Stipends contained in the aforesaid Paper: That, in 79 of those Instances, the Stipends are made less; and, in the other 16 of them, more, in the Scheme-Book, than is warranted by the Ministers Returns, and Mr. *Williamson's* Abstract: And, it being mentioned in the Committee's Report to the General Assembly, that from the said Scheme-Book they had caused to be drawn out an Abstract of the principal Facts, which was therewith produced to the General Assembly, it was insisted by the Second Petitioners, That the said Report and Abstract did not contain a true State of the Facts therein mentioned: And the Petitioners in the First Petition were required to produce the said Abstract to your Committee.

David Dalrymple, Esquire, the Petitioner, said, That the Committee made out a Memorandum, from the Scheme-Book, upon a loose Paper, which was never produced to the General Assembly, but the Contents thereof ingrossed in the Committee's Report, as it is contained in the Abstract of the Records of the Assembly produced; and that is all the Petitioners know of it; and that he never heard of any Abstract till the Agent for the second Petition mentioned it to the Committee.

And to shew, that the said Paper has been frequently demanded, and that Protests have been made upon the keeping of it back;

Mr. *Chalmers* said, He made repeated Demands from Mr. *George Wylbart*, Principal Clerk, and *Robert Mackintosh*, Sub-Clerk of the General Assembly, of the Abstract in question, as a separate and distinct Paper from the Report; that at first they refused

fused to give it, without assigning any Reason, but that they had not Authority from their Committee so to do; and, at last, they said, They could not give it, because it was not ordered to be taken in, nor was taken into the Record, nor directed to be kept as a Paper of any Consequence, nor had been in their Hands for a considerable time; and that the last Answer they gave him was upon the 13th of *December* last.

And he delivered in to the Committee Three Instruments of Protest, and also a Letter of Mr. *Mackintosh*, dated 14th *September* 1750. in which Letter Mr. *Mackintosh*, speaking of the said Abstract, expresses himself thus:

“ With respect to the Calculations made out from Mr. *Williamson's* Abstract, or from the Reports of Ministers, the same having been the Work of a private Hand, and never was adopted by the General Assembly, I am not authorized to give you any of them.”

And Mr. *Chalmer* said, He clearly understood from Mr. *Wishart*, That there certainly was such a Paper.

And the Agent for the Petitioner, in the Second Petition, insisting, there was a Difference between the Amounts given by some of the Witnesses for the First Petition, and the Extracts from the Assembly's printed Minutes, of the Expence of carrying on a Suit for an Augmentation, your Committee ordered the Petitioners, in the First Petition, to produce the Bills of Fees, or the Accounts of the Expence of the Suits for augmenting Ministers Stipends, mentioned in Mr. *Chambers's* said Extracts of the Assembly's Minutes, and all other Vouchers relating thereto, in their Custody and Power: And in particular they were called on to produce to your Committee the Bill of Fees, *Anno* 1743. amounting to 10 *l.* 11 *s.* 6 *d.* paid to the Widow of *James Lawrie*, Minister at *Beurie*, disbursed by him in procuring an Augmentation of Stipend; and the Bill, *Anno* 1746. amounting to 10 *l.* 11 *s.* 6 *d.* mentioned to be paid to *George Blair*, Minister of *Abernethie*, disbursed in procuring an Augmentation of his Stipend: In Answer to which, the said First Petitioners said, They had no such Papers in their Custody. Then Two Acts of the Parliament of *Scotland*, made in the Year 1587. N^o 72. and 83. were read; Copies whereof are set forth in the Appendix, N^o IV. By the First of which the Messengers are directed to find Surety to be always ready to serve the Lieges, and that their Wages should be One Mark by the Day: And by the Second of the said Acts it is ordained, That Officers of Arms committing
Falshood

Falshood or Oppression, in the Execution of their Office, should be punished with Death. And another Act, N^o 208. *Anno* 1594. was also read; a Copy whereof is also set forth in the said Appendix, N^o IV. whereby Officers at Arms are directed to find Sureties for their good Behaviour in the Execution of their Offices, in such manner as in the said Act is mentioned. Mr. *Chalmers* being asked, If the Ministers in *Scotland* pay the Land-Tax for their Stipends; he said, They did not think they did. Then an Act of the Parliament of *Scotland*, N^o 21. *Anno* 1663. a Copy whereof is annexed in the Appendix, N^o IV.; whereby it is ordained, That every Minister should have Fewel, Foggage, Feal, and Devots; as also Grass for One Horse, and Two Kine, over-and-above the Glebe, or Twenty Pounds *Scots*, in lieu thereof; and also Two other Acts of the Parliament of *Scotland*, made in the Years 1665. and 1678. whereby the Ministers Stipends are discharged from paying off Land-Tax, were read.

The Agent for the Second Petitioners then proceeded to give an Answer to the Clergy's Second Head of Complaint; *viz.* The bad Payment of their Stipends: As to Mr. *Macvie*, the Minister of the Parish of *Mairnes*, mentioned by Mr. *Russel*, it appears, by the Entries in the Clergy's Scheme-Book, That his Stipend is 65 *l.* 7 *s.* 2 *d.* and, by the Ministers Returns, page 733. That Mr. *Macvie* does not thereby complain of bad Payment of his Stipend. As to the Parish of *Dalgain*, mentioned by Mr. *Campbell*, the Account given by him, was insisted to be immaterial, it being only what Mr. *Steel*, one of the Petitioners, told him — And Mr. *Steel*, being present, admitted he was the Person mentioned by Mr. *Campbell*, in his Evidence relating to that Parish.

And as to the Parish of *Mauklin*, of which Mr. *Auld* is the Minister, mentioned by the said Mr. *Campbell*, the Clergy's Scheme-Book, and Ministers Returns, were produced, and read; whereby it appears, that the Minister's Stipend is 72 *l.* 4 *s.* 5 *d.* for which he had a Decree; and that, in his Return, he does not complain of bad Payment.

And the Second Petitioners Agent insisted, That, as the Instances of bad Payment, attempted to be laid, by the First Petitioners, before the Committee, were only Three; and, as the Evidence of those Three was only Hearsay; he should not trouble the Committee with calling any Evidence to controvert those Instances.

M

Then,

Then, in order to shew how favourable the Laws of *Scotland* are to the Clergy, in relation to the Payment of their Stipends, the following Acts of the Parliament of *Scotland* were read.

The Act, N^o 6. *Anno* 1669. and N^o 27. *Anno* 1695. ; whereby no Suspensions, or Stop of Execution, are allowed in Suits for Arrears of Stipends, without the Defendant paying the Money into Court : And the Act, N^o 21. *Anno* 1663. relating to their pouding or distraining for Arrears of Stipends ; Copies of which are annexed in the Appendix, N^o IV. and V.

Mr. *Chalmer* being asked, Whether, if the Parliament should grant the Clergy of *Scotland* the Remedies which they desire, it would not be a Disadvantage to the Clergy themselves, and, if so, in what Respect, and for what Reason? he said, That he could not say any thing to the First Part, about executing of Summonses ; but, as to the making their Stipends bear annual Rent in the Terms proposed, he apprehended it must either be totally neglected, if Enacted, or prove disadvantageous to them ; because he thinks it would introduce an universal Practice of with-holding their Stipends much longer than they now are with-held, and deprive them of a very strong Preference that the Law now gives them for their Stipends.

Robert Cragie, Esq; being called in, was asked, Whether the Clergy of *Scotland* are on better or worse Terms, than other Subjects, for the Recovery of their Debts ; he said, That the Clergy have many Privileges in recovering their Stipends, namely, they have a Privilege, and a Preference, against all Intermitters with the Teinds, out of which their Stipends are payable, to all other Creditors ; and they can claim their Stipend from every Intermitter with the Teinds, provided they claim within the Year. Secondly, They have a general Horning upon their Decreet of Locality, or upon a former Horning, against all Intermitters ; and this Horning serves all the time of a Minister's Incumbency, though the Heretors liable in the Stipend should happen to be changed, or the Tenants or Intermitters of the Stipends, which is a Privilege competent only to the Crown—These are the chief Privileges competent to the Ministers, beyond what is competent to other Creditors—But they have in common with other Creditors, that, if the Person liable in the Stipend, being charged upon the Horning, does not pay within Ten Days, he may be denounced, and the Stipend bears Interest ; he may also rest the Debitor's moveable Estate ; he may pound or distrain his Moveables ; and he may obtain a Cap-

tion,

tion, and, by virtue thereof, commit his Debitor to Prison, till he pay the Debt ; and the Debitor cannot stop Proceedings upon the Horning, but upon consigning the Stipend in the Hands of the Clerk in Court, or upon producing a Discharge ; this last is a Privilege competent to the Minister, that is not competent to other Subjects : And, if any Part of the Stipend is payable in Victual, the Debitor must consign 100 Marks for each Chalder of Victual ; and, if the Suspension shall be found groundless, the Minister is intitled to his full Costs at the same time : He has seldom known such Suspensions attempted, because, according to his Information and Belief, the Ministers Stipends are regularly paid ; and that, for the above-recited Reasons, he thinks the Clergy are the best paid of any Persons in *Scotland*, because they are understood to be alimentary ; and every Intermitter with the Teinds is liable and subject to Distress, as above stated, in case of not regular Payment ; and that the Laws of *Scotland* give greater Costs to a Minister than a Layman, as the former, in recovering their Stipend, recover full Costs, without Abatement, which is rarely given to another Creditor.

Being cross-examined, he was asked, Whether a Horning must not be upon a Decreet of Locality? he said, It must be upon a Decreet, or a former Horning : And, in case there be no Decreet of Locality or Horning, they can obtain a Decreet upon Use of Payment, in an inferior Court ; and, upon this Decreet, they may obtain a Horning during their Incumbency, and the Heretor's Possession—And that, upon a Poinding, the Heretor pounds for One Shilling in the Pound more than the Debt, which is called Sheriff's Fees, and which goes to the Minister ; and that is commonly more than sufficient to pay the Officer.

Being asked, Whether if a Minister was to poind for a Crown, how, in that Case, the Officer would be paid? he said, he must be paid by the Minister in the First Instance ; and the Minister would be intitled to an Action for the Expence laid out more than the Sheriff's Fee, and which he would recover, with the Expence of that Action ; and that this is the common Case of all Poindings, where the Sheriff's Fee don't answer the Expence ; but he never knew a Minister poind for a Crown, nor ever knew any Poinding at all in any Clergyman's Case : That Poinding is not a very nice Process ; but that he has known Irregularities committed in it on Processes ; but that was not occasioned by the Difficulty of the Process, which is commonly executed by a Baron's Officer, or a Justice of Peace's Officer, without any Mistake.

Then

Then the Agent for the first-mentioned Petitioners called

Mr. *David Bruce*, who, being examined, said, That he knows *Long-Island*, which is a Place consisting of several Islands, and about 100 Miles long; and that he believes there are no Messengers in *Long-Island*, and does not know of any nearer than *Inverness*: That the Witness has a Lease of Part of *Long-Island*; and does not know there is a Messenger, or Justice of Peace, within that 100 Miles.

Being asked the Question, he said, That he has heard there is a Messenger in the *Isle of Sky*, but that is no Part of the *Long-Island*.

That the Inhabitants complained, that they had no Magistrate among them; and the Clergy complained, that their Stipends were in Arrear, and that the Reason was, because they had no Magistrate to complain to, when their Stipends were not regularly paid.

That if a Messenger is employed by a Minister in *Long-Island*, he is obliged to go there in an open Boat, they having no other sort of Boats there, unless he chuses to hire a Boat from another Part, which will be attended with Expence; and that the Isles are, some of them Four, some Eight, and some Ten Leagues distant from the main Land.

Being cross-examined, he was asked, If he knew any other Place that wanted Messengers, besides *Long-Island*; he said, He never made it his Business to inquire:

That he thinks *Long-Island* is in the Presbytery of *Southweist*: and that there are only Five Heretors there, whose Names he repeated to the Committee, but that only Two of those Heretors reside in *Long-Island*; and that he believes those who don't reside there, may be summoned upon main Land:

That he can't call to mind every particular Minister in that Country, who complained to him, that his Stipend was ill paid; but there were several who did; and named Mr. *M^cAuland*, Minister of *Southweist*, and Mr. *Mountford*, Minister at *Fort-William*, both of whom did.

Being asked, Whether those Two Parishes were not Part of the Estates forfeited in the late Rebellion; and whether that, or their being under a Suspicion of Forfeiture, may not be the Reason of Non-payment? he said, That at *Fort-William* was Part of a forfeited Estate; but that at *Southweist* is undetermined, on account of a Misnomer; but he can't say whether that has been the Reason of Non-payment, for the Estate at *Fort-William* has been

been under Factory since 1745. and that the Witness is Tackfman for some of the forfeited Estates, but not Factor for any; and, where he is Tackfman, the Leases are in his own Name, for the Behoof of the Government: But it is *Clauronald's* Estate; the Point is not yet determined, whether it is forfeited, or not.

Being asked, If he knew of any Complaints of that kind before the Rebellion? he said, He was never there before the Rebellion; that the Complaints were made to him in 1747. and he don't remember, that the Ministers said they were ill paid before the Rebellion.

Then the Agent for the second mentioned Petition proceeded to shew, that none of the Eight Parishes in *Long-Island* come within the Complaint in the First Petition:

That Four of the Eight, viz. *Stranaway*, *Lockes*, *Wig*, and *Barras*, had Decrees of Locality in the Year 1722.; that the Minister of the Parish of *Harris*, another of the said Eight Parishes, has a Stipend of Fifty Pounds a Year, and that he does not complain of bad Payment; that the Minister of *Barrow* obtained a Decree in 1734.; that the Minister of *Northweist* hath Eight Chalder of Victual; and that the Minister of *Southweist* likewise obtained a Decree in 1734. and the full Tiends; and, in his Return, he does not complain, that he is ill paid, as appears from the said Entries in the Scheme-Book, and Ministers Returns read to the Committee; and it also appears by the Return, Page 2449. that Mr. *Mackford*, Minister of *Killmally*, near *Fort-William*, does not complain of being ill paid.

Mr. *Chalmer*, being further examined, said, That it is in the Power of the Lord *Lyon*, King at Arms, to appoint as many Messengers in *Scotland* as he should think fit; and that the said Lord *Lyon* told him, That there were Twelve Messengers in the Shire of *Air*, and that he was willing to appoint as many more as they should desire: He further added, That he never knew or heard of any Parish in *Scotland* that wanted a sufficient Minister, on account of the Lowness of the Stipend, and other Provisions.

The Agent for the Second Petitioners then produced to your Committee the Resolutions of 27 of the Counties in *Scotland*.

And Mr. *Chalmer*, being shewn the said Papers, said, They were the Resolutions of the several Counties of *Scotland* therein mentioned, declaring their Purpose of opposing the Augmentation-Scheme resolved upon by the General Assembly 1750. and

lodging the Conduct of such Opposition with the Petitioners in the Second Petition; Copies of Two of which Papers are annexed in the Appendix, N° VI.

And, being shewn One of the said Two Papers, intituled, *Extract Sederunt of the Heretors of the Shire of Edinburgh, 12th January 1750.* he was asked, Whether the Expression, "That the Meeting were of Opinion to oppose the Scheme of the Augmentation of Ministers Stipends in *Scotland*, as it has been formed and carried on by several of the Clergy, and has been published and explained by the Proceedings of the Church-Judicatories, and their Committees, who have it under Consideration," was confined to that Part of it which related to the Increase of the *Minimum*; or whether it extended to any other, or what Parts of the said Scheme.

He said, He was present at the time when this Resolution passed; that there was a Debate upon it; and that those Words were put in to signify, that the Resolution did extend to all the Particulars in the Scheme resolved upon by the General Assembly; and that he does not remember any Person but one to have spoken against its being so extended.

Robert Cragie, Esq; being further examined, said, That, by the Law of *Scotland*, no Person can be presented to a Benefice, unless he be previously licensed by the Presbytery, and declared qualified for the Ministry; and that he knows of no legal Pretence for refusing to settle a Presentee so qualified.

Being asked, What was the usual Pretence of such Refusal? he said, It was difficult to answer; but, as far as occurs to him, the Church of *Scotland* consider Patronage as a Grievance, and the settling of Churches by Patronages as in some measure encroaching on their Constitution; and, though they are not all of the same Opinion in this Particular, yet the Majority of several Presbyteries are, and are unwilling to settle any Minister upon a Presentation:

And, for that Reason, if the Heretors, and the Elders, or even the People, opposed the Settlement of the Presentee, the Presbyteries are very ready to reject him, and to settle one that is chosen by the People, as this is agreeable to their own Principles; and that he never knew any Minister settled by the Presbyteries, but he enjoyed the Stipend, though he was settled contrary to the Presentation:

That he knew one Instance where this was brought in Question before the Court of Session; and in that Cause, though the Court

of

of Session found the Patron had a Right to retain the Stipend until his Presentee was settled in the Abstract, yet in the Issue of the Cause the Court found the Patron had no Right in that Case, and that the Minister settled contrary to the Presentation had Right to the Stipend, which he enjoyed till his Death: That there is another Case at present depending in the Court of Session; but in what manner it will be determin'd, he can't say.

Being asked, Whether, if the Court of Session shall continue, upon Application, to increase the Stipends of the Clergy when they are before above the Legal, the summoning of the Heretors from the Desk may not, if granted, prove a Grievance to the Heretors? he said, He could not speak to Futurities with Certainty: He believes the Heretors would think it a Grievance, if they continued to augment above the Legal; but could not say, whether summoning them from the Desk would add to the Grievance.

Being asked, Whether, in some Presbyteries, the accepting the Presentation, and being the Patron's Presentee, has not been a sufficient Reason for not admitting the Presentee? he said, That all he could say to that was, he had known a Presentee rejected by a Presbytery, where he could discover no other Reason but his accepting the Presentation; but that in the Assembly he had not known it done: That he knows the Patron, in those Cases, has appealed to the Synod, and from thence to the General Assembly; but what the Expence of such Applications were, he cannot say: And that he has known Applications made to the Assembly in favour of the Presentee, but without Success; and that in Cases where Appeals have come to the Assembly, and they have ordered the Presentee to be settled, the Presbytery have disobeyed such Order.

Mr. Chalmer being asked, Whether the Clergy of *Scotland* settle Ministers according to the Right of Patronage? he said, For aught he ever heard, they never did, as he understands it; and that the Reason of ill Humour between the Heretors and their Ministers settled, and the Occasion of their Backwardness to pay the Stipend, was, as he had always heard, the manner of Ministers coming into Parishes: But whether those Disputes did arise from the Clergy not observing the Law with regard to Patronages, or from the Disputes amongst different Parties of the Heretors on those Occasions, he could not say.

And being asked, If the Clergy did not often settle the Presentee? he owned, They did; but said, His Reason for thinking those Settlements were not according to the Right of Patronage,

as

as he apprehends the Right of a Patron to be, That the Presentee ought to be settled, if there is no Objection to his Life and Doctrine, sustained by the Presbytery, without their asking the Concurrence of Heretors, Elders, or Heads of Families, which is generally called the Moderation of a Call; and that he did not know any Instance wherein they proceeded after that manner; nor did know any Instance where they settled the Presentee, when the Majority of Heretors and Elders were against him, and for another; but said, He had Reason to believe they had frequently done so.

And being asked, Whether the ascertaining the Right of Patronages, and obliging the Clergy to settle accordingly, would not prevent Disputes between the Ministers and Heretors of the Parish, and procure more easy Payments of the Stipends? he said, He could not judge of that Point.

And he says, That the Prosecution of a Suit for a Settlement of a Minister, when contested, through all the Forms of Ecclesiastical Courts, is very expensive; and that he was concerned in one, that cost the Patron 50*l.* without paying any thing to One of his Two Counsel, or his Agent.

And being asked, If he could recollect the time when the Practice began for moderating the Call? he said, He apprehended, that the legal Method of proceeding was from the Year 1690. when the Right of Presentation was taken from Patrons till 1712. when it was restored; and reckons it was continued on even after that; but knows nothing for certain as to the Time of the Commencement of that Practice.

Then a Minute of the Resolution of the General Assembly of the Church of *Scotland*, dated the 13th of *May* 1751. was read; which is annexed in the Appendix, N^o VII: And a Letter from *Mr. James Mackie*, Moderator of the said Assembly, dated the 14th *May* 1751. was read; and is annexed in the Appendix, N^o VII.

APPEN-

A P P E N D I X.

N^o I.Act 1617. N^o. III. Vol. I. p. 879.3. *Anent the Plantation of Kirks.*

OUR sovereign Lord, considering that there be divers Kirks within this Kingdom not planted with Ministers, where through Ignorance and Atheisme abounds amongst the People; and that many of those that are planted, have no sufficient Provision or Maintenance appointed to them, whereby the Ministry are kept in Poverty and Contempt, and cannot fruitfully travel in their Charges. Considering also that nothing is more properly belonging to his princely Care, than to see to the good Estate of the Kirks within his Dominions, out of the Zeal which his Majesty bears to the promoting of the Kingdome of Christ.

And for ane perfitt Remedie of those Evils, with Advice and Consent of the Estates of Parliament, hes granted full Power and Commission to the Lord Chancellor for the Time, and to the Reverend Fathers in God *John* Arch-bishop of *Sanct-Andrewes*, *James* Arch-bishop of *Glasgow*, *Alexander* Bishop of *Dunkeld*, *Alexander* Bishop of *Aberdeen*, *Alexander* Bishop of *Murray*, *Patrick* Bishop of *Ross*, *Adam* Bishop of *Dumblane*, and *William* Bishop of *Galloway*: Eight Persons nominate for the Clergy and Prelates, and in case of the Decease of any of them, to *Andro* Bishop of *Brechin*, *George* Bishop of *Orknay*, *Andro* Bishop of *Argyle*, and *John* Bishop of *Caitness*: Which Foure Persons, his Majesty and Estates hes nominate to supply and become in the
 O Place

Place of any of the other Eight aforesaid, if any shall happen to decease before this Commission be finished. To wit, the First of the Four in the Place of the First of the Eight deceasing, and so in Order successively as they are named. And to *John* Earle of *Marr* Lord Thesaurer, *James* Marques of *Hamilton*, *James* Earle of *Abercorne*, *William* Earle of *Tullibardin*, *Robert* Earle of *Roxburgh*, *John* Viscount of *Lawderdale*, *Thomas* Lord of *Binning*, and *David* Lord of *Carnegie*, Eight Persons nominate for the Nobility. And in case of any of their Deceases, to *Alexander* Lord *Elphinstoun*, nominate to become in the Place of the First deceasing, *Alexander* Earle of *Eglington* in the Second, *John* Earle of *Pertb* in the Third, and *John* Lord of *Balmirrenock* in the Fourth. And to the Commissioners under-written nominate for the Barons: to wit, *William Douglas* of *Drunlangrig*, *Sir Walter Dundas* of that ilk, *Sir James Haliburton* of *Pitcur*, *Sir John Hamilton* of *Lettrick*, *Sir John Vaus* of *Barnbarroch*, *Sir Andro Murey* of *Balvaird*, *Sir Alexander Gordon* of *Cluny*, and to *Sir George Auchinlek* of *Bulmanno*. And in case of any of their Deceases, to *Thomas Urquard* Sherriff of *Cromarty*, *Sir Alexander Strachan* of *Thorntown*, *Iofias* Steward of *Boniton*, and *Sir Robert* Steward of *Schillinglaw*, Persons nominate to become in Order as they are named in Places of any of the Eight deceasing. And to *James Arnot* Burgesse of *Edinburgh*, Master *Alexander Wedderburne* Clerk of *Dondie*, *Sir Thomas Menzies* Provest of *Aberdeine*, *John Sherar* Burgesse of *Sterling*, *Andro Milne* Burgesse of *Linlithgow*, *John Osburne* Burgesse of *Air*, *John Matheson* Clerk of *Carel*, and *Sir George Bruce* of *Carnock* Knight, Burgesse of *Culros*, Eight Persons nominate for the Burrowes. And in case of any of their Deceases, to *Alexander Clerk* Merchant Burgesse of *Edinburgh*, Master *William Ferguson* Burgesse of *Dundie*, *George Nickolson* Burgesse of *Aberdein*, and *John Williamson* Clerk of *Sterling*: Persons nominate to supply in Order any of the other Eight Commissioners aforesaid deceasing. Which aforesaid Commissioners, or any Five of ilk Estate nominate, as said is, consenting and agreeing in aue Voice, shall have Power to convein, consult, and to determine upon the Matters, and in manner underwritten. Providing alwayes, that there is and shall be necessarily requisite to the Validitie of any Act, Conclusion, Ordinance, and Determination of the saids Commissioners, the conjunct Assent of Five of every aue of the saids Foure Estates, all agreeing together in aue Voice, without the which Consent of the saids Five of ilk Estate so agreeing, the rest of the saids Commissioners shall have no Power to make any valide or effectual

effectual Conclusion by vertue of this present Commission, but whatsoever shall be otherways done, is declared to be na Auaile, Force nor Effect. That is to say,

Our soveraigne Lord and Estates of Parliament by the Tenour hereof, gives, grants, and commits full Power and Authoritic to the said Commissioners to meet and convene in the Town of *Edinburgh*, at sik time and times as they shall appoint and finde convenient, and there to call and summond before them, all Patrons, Tacksmen of Teinds great and small, and all others having Right by whatsoever Title to the Teinds within this Kingdome, as they shall think necessar and expedient to exhibite and produce before them their Rights and Titles, whereby they claime the saids Teinds to be scene and considered be the saids Commissioners, with Power to them out of the saids Teinds of every Parochin, to appoint and assigne at their Discretions *ane perpetual local Stipend* to the Ministers present and to come at all Kirks that shall be found by them *either as yet not provided at all*, with Ministers and Stipends, or where the Provision is lesse nor *Five hundreth Marks of yearlie Rent in Money*, or *Five Chalders Victual* (by Manse and Gleibe) or sik Proportion particularly of Silver and Victual, as well effer and extend to *Five hundreth Marks* or *Five Chalders of Victual* yearly, and which is the least and the meanest Stipend and Provision determinate, appointed, and declared by his Majesty and Estates, to be given and assigned to any Minister for his local Stipend in time coming, *where the Fruits of the Benefice will extend to that Quantitie in manner under-written*, and that notwithstanding of any Right or Title pretended by the said Tacksmen, or others in whose Favours Teinds have been erected. With special Power also to the saids Commissioners, to *unite* sik Kirks, aue or moe as may conveniently be unite, *Where the Fruits of any one alone will not suffice to entertain aue Minister*. In the which Case of Union of sick Kirks, if it fall out that Necessitie offer to unite Kirks belonging to the Presentation of divers Patrons, the Presentation of the Ministers shall be appointed by the said Commissioners to pertain to the Patrons (*alternis vicibus*) to the which Commissioners his Majesty and the Estates does recommend and refer to consider and appoint farther sick solide Order as may be best taken, and stand with the least Prejudice of any of the Patrons, and as they shall be found to have more or lesse Intrest in the Kirks to be so united. It is always provided, That whereas there are divers Kirks whereof the Fruits of any one will not extend to the Quantity of *Five Chalders Victual*, nor *Five hundreth Marks* of Silver in

in yearly Commoditie, and that the Rents and whole Patrimonie thereof are noways answerable to that Proportion, and so is not sufficient the alone for the full Maintenance of ane Minister, and yet nevertheless for Distance of Place, or other lawful Causes may be found incommodious to be united, whereby Necessity will evince that every Kirk in that Estate, should be planted with their own particular Minister to serve thereat, *whose Provision behooves necessarily to consist of the Fruits of the Benefice itself, how mean soever the same be.*

Therefore it is declared that it shall be sufficient to the saids Commissioners in that Case to assigne and appoint to the Minister to be planted at any sik Kirks *the whole Fruits pertaining to the Patrimony thereof*, by and attour his Manse and Gleibe. Which Fruits are to be enjoyed by him and his Successours thereafter, as their perpetual local Stipend and Provision. And to the end the said Commission may take the better Effect, and for ane solide Order anent the Provision of the said Kirks, with their *certain definite Stipend*. And that it may be clearly known what shall be the Proportion and Quantitie of any Stipend, which shall be hereafter appointed to every Minister, at any Kirk, *either not provided at all, or not sufficiently provided*, as said is;

Our soveraigne Lord and Estates declares, That the *least* and meanest Stipend which they have appointed to be hereafter provided by the saids Commissioners to any Minister shall not be under and within the Quantitie of *Five Chalders Victual, or Five hundreth Marks* of Money, or proportionally Part of Victual, and Part thereof in Money, according as the Fruits and Rents of the Kirk may yeeld and afford, and as the saids Commissioners shall think expedient, effecting to the said *Five Chalders Victual, or Five hundreth Marks* Money, by and attour their Manse and Gleibe, where the whole Fruits of the Kirk will extend to the Quantitie foresaid, and that the *greatest* and most Stipend which the said Commissioners shall have Power to assign for Stipend to any Minister at any of the saids Kirks, either not planted or planted, and provided with Stipends within and under the said *Five Chalders Victual, or Five hundreth Marks* of Money, as said is, shall not exceed the Quantitie of *Ten Chalders Victual, or one thousand Marks* of Money, and proportionally Part of Money, and Part of Victual, at the Consideration of the saids Commissioners, as they shall finde by Examination of the Rents of the Kirk most conveniently may be payed by and attour their Manse and Gleibe. Swa the *greatest* shall be *one thousand Marks, or Ten Chalders Victuall* with

with Manse and Gleibe, and the *least Five hundreth Marks, or Five Chalders* of Victual, with Manse and Gleibe, *except where the whole Fruits of the Kirks will not extend to that Quantitie*, as said is. And finds and declares, that all Kirks *which are planted with Ministers*, whose Stipends *extends to Five Chalders Victual, or Five hundreth Marks* of Silver, or Part of both, effecting to the whole by their Manse and Gleib (the same being made sure to them) are *expresly excepted* out of this Commission, and no wayes comes under the Compasse thereof, neither shall the saids Commissioners have any Power by vertue hereof to meddle with any Kirks or Stipends which are in that Case, seeing the said Commission is not extended to the same. It is also provided, that where any Kirks are already sufficiently provided, albeit their Provision *does exceed* the foresaid Quantitie of *Ten Chalders Victuall, or One thousand Marks* of Money, and als *where the Fruits of any Benefice are in the Possession of the Minister*, that the same shall be continued in the Estate wherein it is at the present, and not to be meddled with by vertue of the said Commission. And because Reason and Equity craves, that Recompence should be made unto the Tacksmen, and other Persons whatsoever, who shall be by the Sentence of the saids Commissioners hurt and prejudged of their present Profit, which they may lawfully bruike by vertue of their Titles and Rights, established in their Persons, and upon whom by vertue of the said Sentence, any Burden of the Sustentation and Provision of the said Kirks and Ministers is to be imposed;

Therefore our said Soveraigne Lord and Estates of Parliament gives full Power and Commission to the said Commissioners, so to proceed in the determining of the saids Recompences, That in case the Lord, or any other having Right to erected Prelacies, who shall be cited before them, refuse to take the Burden of Plantation of any Kirks belonging to the saids erected Prelacies, which are not planted, or to help sik other Kirks of the same, as are not well and sufficiently provided, according to the Tenour of the foresaid Commission, and that upon their Refusal (the said Refusal being first found reasonable by the saids Commissioners) the Burden of the said Plantation, or farther Provision, shall be laid and imposed by the saids Commissioners, in Whole or in Part, either upon the principal Tacksmen of any of the Fruits of the saids Kirks. Or in case if the Tacksmen refuse, the Burden be imposed upon the Sub-tacksmen thereof, the saids Commissioners shall have Power to decerne, appoint, and ordaine sik particular Recompence to be given to the saids Tacksmen, or

Sub-taksmen, by renewing of their Tacks, or Sub-tacks, after the Expiring thereof, upon sik Conditions as the saids Commissioners shall find reasonable, respect being had to the Quality and Proportion of the Burden to be imposed upon them within the Time of their Tacks and Rights, farther than they are astricted by their saids Rights, or by appointing sik other reasonable Satisfaction as they shall finde the said Burden and Distresse undergone by any of them, shall deserve and require.

Likeas the saids Commissioners shall have siklyke Power to determine, decerne and appoint sik particular Satisfaction and Recompence to be given either to laick Patrons, or to the Taksmen, of the Fruits of the Kirks belonging to the like Patronages and Sub-taksmen thereof, as they shall think may be answerable to the Burdens to be imposed upon either of them for the Cause above-written proportionally. In the preserying of the which Recompence, the saids Commissioners shall have special Respect, what Consideration they finde reasonable to be given to the saids Patrons for their Consents to the Tacks, if any shall be appoynted and decerned to be set and given to the saids Taksmen for Recompence foresaid. And if any beneficed person, upon just and reasonable Causes, refuses to provyde any Kirk belonging to their Benefice, according to the Order hereby prescribed, whereby the Burden of Plantation, or farther Provision of the Kirk, must necessarily lye upon the Taksmen, or Sub-taksmen, of the Fruits thereof; the saids Commissioners in that Case also shall decerne sik Recompence to be given to the saids Taksmen and Sub-taksmen for their Loss and Prejudice sustained, as the saids Commissioners shall find the same shall merit, by renewing of Tacks to them upon sik Conditions as may requite their Loss, or by finding out some other reasonable Meane which may repair the same. And our said Sovereigne Lord, with Advice and Consent of the saids Estates, declares, statutes, and ordeins, that all Tacks which shall be decerned by the said Commissioners to be given in Recompence to any Person whatsoever for the Causes above-written, and which shall be set for Obedience, and conforme to the said Decreet and Sentence; whatsoever Years, or long Space the saids Tacks shall comprehend, shall be good, lawfull, and sufficient Securities to the Persons in whose Favours the same are appoynted to be given and conceived, neither shall the same be any ways prejudged by the Act made in this present Parliament, by the which it is statute, that no Arch-bishop, Bishop, or Prelate, should set in Tack any Part of their Patrimony for longer Space nor Nineteen Yeares, and that no inferior beneficed Person shall

set

set in Tack any Part of their Benefice for longer Space nor their awne Life times, and Five Yeares thereafter, as the said Statute reports, fra the which Statute, the saids Tacks so appoynted to be set and given in Recompence, are and shall be excepted and reserved, and shall no wayes come under the Compass of the said Act and Statute, nor any thing therein contained, but the same shall remain and abide valide and sufficient Rights for the whole Space and Yeares appoynted therein, according to the Tenour thereof, notwithstanding of the said Act and Statute.

And because it may fall furth, that in the Recompence to be appoynted by the Commissioners to the Patrons, Taksmen, and Sub-taksmen, for the foresaid Burden to be imposed upon them, moe Years may be assigned for Prorogation of their present Tacks, nor may lawfully or conveniently be set be the present beneficed Persons to whom be Law the setting of Tacks of Teinds belongs: For Remeid thereof, our Sovereigne Lord, with Advice and Consent of the Estates, declares, statutes and ordeins, that it shall be lawfull to the Commissioners foresaid to appoynt als many Yeares after the Expyring of the present Tacks, to the Taksmen of the saids Kirks and Teinds, or to the Patrons or Sub-taksmen *respective*, for bruiking of the saids Teinds for Recompence of the said Burding as they shall think reasonable, which shall be als good, valid and sufficient Rights to the saids Patrons, Taksmen, and Sub-taksmen *respective*, and to their Heirs and Assignayes, for bruiking and possessing and disponsing upon the saids Teinds during the saids Years of Prorogation, as if good, lawful, and valide Tacks and Rights of the saids Teinds had been set and made to them be the Titulars of the Benefices to whom the same belonged, with Consent of all Parties having Entresse. With exprefs Provision and Declaration that at the Expyring of all the saids Years, the Right of the saids Teinds, and Power to set Tacks thereof, shall returne and appertein to the saids Titulars of the foresaid Benefices, as they did before the making of this present Act.

And our said Sovereigne Lord, with Advice of the saids Estates, declares and ordeins this Commission to last and endure to the Feast and Terme of Lambes, in the Yeare of God One thousand Six hundredth and Eighteen Years, after the which Time the same shall cease and expire. And ordeins the Decreet and Sentence of the saids Commissioners in all the Particulars foresaid, and every one of them, to have the Strength, Force, and Authority of an decreet Sentence, *and Act of Parliament*. For Obedience whereof the Lords of Session shall direct and grant Letters in Forme as effeirs, and according as shall be necessar. Which

Com.

Commission above-written, taking Force and full Effect in all the saids Particulars therein contened, as the same are set down and comprehended therein, by Pronunciation of Decreet and Sentence upon the same, conforme to the Power therein comprehended, given to the saids Commissioners.

Our Sovereign Lord, with the expres Consent and Assent of the Estates in that Case, findes and declares, that no Person in whose Favours the Teinds of Kirks and Benefices are erected, nor no other whatsoever bruiking Teinds, by vertue of Rights lawfully made to them of the same, according to the Lawes of this Realme then standing, shall be ever farther altered or quarrelled in any of their saids Rights in any Time to come, farther than shall be appointed by the said Decreet and Sentence to follow this present Commission; but the saids Rights and Securities in Case foresaid, shall remaine in the awne Strength, Force and Effect, as good, lawful, and sufficient Rights and Securities to them, and every awne of them for their awne Parts, for bruiking and enjoying the saids Teinds, conforme to the Tennour of the saids Rights, for now and ever.

Extract of Act the Fifth, 1621. anent the Plantation of Kirkes as yet unplanted.

OUR Sovereign Lord understanding that there be diverse Kirkes within this Kingdom, which by the late Commission appointed for Plantation of Kirkes in the Parliament holden in *Junii 1617.* were not settled nor provided with constant Stipends, but which yet remain disfurnished, and unprovided of competent Means to be given to the Ministers who shall be provided to the Charge and Function of the Cure of the same; and therewith also, his Majesty considering that there have been heretofere sundry Kirkes united together, and conjoined in one, albeit upon good Considerations it may be found more expedient that the same Union be dissolved, and that the said Kirkes be provided severally with distinct Functions, and separate Services, at such Places where the Commodity may afford, in the same manner as if no such Union had been made, and such like; because there be some Kirkes, whereof the Parochine is of so large Bounds, that many of the Parochiners dwelling in Townes of the Parochine so remote from the Kirke, who for the great Distance of the Place, or for the Interjecting of Waters betwixt their Townes and the Kirkes, which oftentimes,

times, and especially in Winter, are not passable, or for some such other known Impediment, cannot have Access and Repair to the Parochie Kirkes at the ordinary Times appointed for Divine Service and Worship, and enjoy the Comfort of the Exercise thereof; and our Sovereign Lord, according to the princely and godly Endowments wherewith his Majesty is singularly blessed, being most careful to establish all good Order, and propagate the religious and true Worship of God univervally throughout all this whole Kingdom, wherethorow all his People may have Occasion to participate the Benefit of the Word, without feeling of any of these Prejudices growing from the above-written Occasions, which his Majesty, in his Royal and Fatherly Care over his People, is most desirous to have removed: Therefore his Majesty, with expres Advice and Consent of the Estates of Parliament, hath granted full Power and Commission to the Lord Chancellor, for the Time, and to the Reverend Fathers in God *John* Archbishop of *Saint Andrews*, &c. which afore said Commissioners, or any Four of each Estate, nominate as said is, consenting and agreeing in one Voice, shall have Power to consult, conveye, and determine upon the Matters, and in manner underwritten; providing always, that there is, and shall be, requisite to the Validity of any Act, Conclusion, Ordinance, and Determination of the said Commissioners, the conjunct Assent of Four of every one of the said Four Estates, all agreeing together in one Voice, without the which Consent of the said Four of every Estate so agreeing, the rest of the saids Commissioners shall have no Power to make any valid or effectual Conclusion by vertue of this present Commission; but whatever is otherwise done, is declared to be of none Avail, Force nor Effect; that is to say, Our Sovereign Lord, and Estates of Parliament, by the Tenor hereof, gives, grants, and commits, full Power and Authority to the saids Commissioners, to meet and conveye in the Town of *Edinburgh*, at such time and times as they shall appoint and find convenient, and there to call and sumonde before them, all Patrones, Tacksmen of Teynds great and small, and others having Right, by whatsoever Title, of the Teynds of any of the Kirkes of this Kingdom, which are not already planted by the foresaid First Commission, and which shall anyways be medled with by this present Commission, as they shall think necessary and expedient, to exhibit and produce before them their Rights and Titles whereby they claim their said Teynds, to be seen and considered by the said Commissioners, with Power unto them, out of the saids Teynds of every Parochine and Kirke not already planted,

to appoint and assign, at their Discretions, a perpetual local Stipend to the Minister present, and to come, at all the said Kirkes unprovided, as said is; and that notwithstanding any Right or Title pretended by the said Tackesmen, or others, in whose favours Teyndes have been erected, with Power also to the saids Commissioners to disunite such Kirkes, one or more, as were united of before, and appointed to be served by One Minister, and as they upon good Considerations shall find requisite, to appoint the same to be served by several Functions and Charges as distinct Parochines, after such manner as shall be found by them most expedient; providing always, that all Parties having Interest in the Union and Disuniting of the saids Kirkes, and Plantation thereof, give their expresse Warrant and Consent thereunto.

In the which Case of Plantation and Provision of the Kirkes which shall be disjoined, as said is, the Presentation of the Ministers shall be appointed by the saids Commissioners to pertain to the Patrons, conform to their Rights thereof, to be produced before them, and as the saids Lords Commissioners shall find most agreeable to Reason and Equity; with Power likewise to the saids Commissioners to appoint and set down such solide Order for erecting and building of new Kirkes in any Parochines where they shall find Necessity and Conveniencie to do the same, and where the Parochiners are not presently well and commodiously served at the present Kirkes of the Parochine, as they shall find most expedient; and the saids Kirkes being erected, with Power to the saids Commissioners to provide the same with such Proportion of Stipends as they shall find may be, with least Prejudice, and best Comoditie, made out of the Fruits of the saids Parochines, to the Ministers to be appointed to serve at the saids new builded Kirkes; to the which building and makeing of new Kirkes, and providing of the same with competent Stipends, the said Estates finds and declares, that it shall be expressly necessary, that the Patrons, Tackesmen, and other Parties having Interest in the Erection and Building the saids new Kirkes, and in the Planting and Provision thereof aforesaid, give their expresse Warrant and Consent thereunto; which being so had and obtained, with Power to the saids Commissioners to proceed therein as is most agreeable with Reason.

It is always declared, that in all and every one of the Cases above-written; that is to say, either in providing of Kirkes not planted of before, or in disuniting of Kirkes formerly joined, and appointing of several and distinct Stipends to the same; or in the erecting of new Kirkes, and Provision of them with Ministers and Stipends; the saids Commissioners shall have expresse Power and

and Warrant to determine and appoint such Proportion and Quantity as they shall find expedient, either amounting over the Sum of Five hundred Merks; or beneath and under the same, as they shall find may most conveniently and commodiously be had, after the Consideration of the Quantity and Estate of the Fruits of the Kirk, and the Case wherein the same is, and as may be with least Prejudice spared out of the same: And the said Estates finds and declares, that the saids Commissioners shall have no Power, by vertue of this Commission, to alter or meddle with any Kirk which was settled by vertue of the foresaid Commission granted in *Anno* 1617 Years, or to change the Estate thereof in anywise, or yet to erect, build, or provide any new Kirk, without the special and expresse Consent of all Parties having Interests had and obtained thereunto, without whose Consents it shall not be lawful for the saids Commissioners in anywise to touch the said Kirkes so provided; but the same are expressly excepted (except in Case of Consent foresaid) out of this present Commission, &c. And our said Sovereign Lord, with Advise of the Estates, declares and ordains this present Commission to begin upon the Tenth Day of *January* next to come, with Continuation of Days, and to last and endure during the Space of Year and Day thereafter, after the which Time the same shall cease and expire; and ordains the Decree and Sentence of the saids Commissioners in all the Particulars foresaid, and every one of them, to have the Strength, Force, and Authority of a Decree, Sentence, and Act of Parliament; for Obedience whereof the Lords of Session shall direct and grant Letters in Form as effaires, and according as shall be necessary; which Commission above-written taking Force and full Effect in all the saids Particulars therein contained, as the same are set down and comprehended therein, by Pronunciation of Decree and Sentence upon the same, conform to the Power therein comprehended given unto the saids Commissioners.

Our Sovereign Lord, with expresse Consent and Assent of the Estates in that Case, finds and declares, that no Person in whose favours the Teynds of Kirks and Benefices are erected, nor no other whatsoever bruiking Teynds, by vertue of Rights lawfully made to them of the same, according to the Laws of this Realm then standing, shall be ever farther altered or quareled in any of their saids Rights in any Time to come, further than shall be appointed by the said Decree and Sentence to follow upon this present Commission: But the saids Rights and Securities, in Case foresaid, shall remain in their own Strength, Force, and Effect, as good, lawful, and sufficient Rights and Securities unto them, and every one of them, for their own Parts, for bruiking and enjoying the saids Teynds, conform to the Tenor of the saids Rights for now and for ever.

Of

Of Ratification of the Act of Commission anent the Ministers Provisions.

Act 1633. No. VIII. Vol. II. p. 24.

OUR Sovereigne Lord, with the Advice and Consent of the Estates of Parliament, ratifies and approves the Act of Commission of Surrenders and Teinds, of the Date at *Holy-rude-house* the Twentie-sixth Day of *June*, the Yeare of God 1627 Yeares, whereof the Tenor follows. The Commissioners after reasoning upon the *lowest* Proportion and Provision, wherewith the Ministrie serving the Cure at each Kirke, shall be provided, have found it meet and expedient, that the *lowest* Proportion shall be Eight Chalder of Victual, where Victual is payed, or proportionally in Silver or Victual, as the Commissioners shall appoint, at the setting of the Kirke, and according to the Estate of that Part of the Country, where the Payment of the Stipend shall occurre. And thinke it meet, that the said Proportion of Eight Chalder of Victual, or proportionally in Silver, as said is, shall be the *lowest Maintainance* to each Kirke, *except such particular Kirkes occurre, wherein there shall be a just, reasonable, and expedient Cause to goe beneath the Quantitie now determined.*

And his Majestie, and Estates foresaid, referre to the Commissioners to be chosen by his Majestie, at this present Parliament, the Consideration of the Reasons and Causes, which may move them (after the Valuation of the true Worth of the Teinds of ilke Parish be closed) to determine and modifie a *less Quantitie* for the Ministers Maintainance, nor the Quantitie foresaid of Eight Chalder of Victual, or *Eight hundred Marks* in Victual or Moneys proportionally. And what the saids Commissioners shall determine therein, the same to *stand* notwithstanding of this present Ratification. And also his Majestie and Estates ratifie and approve the whole particular Acts of the said Commission of Surrenders and Teinds, whereby *Stipends are appointed and modified* by the saids Commissioners alreadie, and ordaine the Ministers to whom the same is assigned, to have Intromission therewith: And that the Lords of Session direct Letters of Horning and Poynding, in favour of the said Ministers, conforme thereto, upon one simple Charge of Ten Days alennerly. And also upon all other Acts to be made for Plantation of Kirks by the Commissioners appointed by his Majestie and Estates for that Effect. And it is declared, That these

Presents

Presents shall be without Prejudice to the Titulars and others having Interest to pursue for rectifying of such Valuations, as are or shall be enormly undervalued, and also without Prejudice of the Ministers Maintainance and Augmentation proportionally effecting to the true and just Worth of the Teind, &c.

19. *Commission for Valuation of Teinds not Valued, rectifying the Valuations of the same already made, and other Particulars therein contained.*

Act 1633. No. XIX. Vol. II. p. 53.

FOR so much as our soveraigne Lord, immediately after his happy attaining to the Crowne of this his ancient and native Kingdome, did out of his royal and fatherly Care to the publique Good thereof, give forth his royal Declaration, anent the reforming of the Abuses used in leading of Teinds, and for Provision and Maintainance of Kirks and other pious Uses forth of the saids Teinds. And also for restoring the Crown to the Superiorities of whatsoever Benefices and Temporalities thereof erected in temporal Livings, and against other Prejudices and Detriments done to the Crown, mentioned in the said Declaration. And albeit his Majesty hath been still urging and following the Performance of the Particulars foresaid these Five Years by-gone, or thereabout, by Commission direct by his Majestie under his Great Seale, to that Effect; wherein there hath been good Progress made, yet the same could not take a full End without the Authority of a Parliament: Like-as his Majesty out of his earnest and tender Affection to the publique Good of this his native Kingdome: And for advancing the saids great and glorious Works intended by his Majestie, as said is, hath taken the Pains to come hither in his Royal Person, where his Majestie being present in solemn Parliament, with his Three Estates of his said antient Kingdome: Have resolved and concluded upon the particular Acts and Statutes after following, tending to the publique Good, Peace, Ease, and Comfort of his said Kingdome and Subjects thereof: *viz.* His Majestie and Estates foresaid have ratified the Act of Commission of Surrenders and Teinds, of the Date at *Holy-rude-house* the Twentie sixth Day of *June*, 1627 Yeares, whereby it is found meer and expedient, that the *lowest* Proportion for Maintainance of Ministers shall be Eight Chalder of Victual, or *Eight hundred Markes* proportionally, *except such particular*

R

*particular Kirkes occurre, wherein there shall be a just, reasonable, and expedient Cause to go beneath the foresaid Quantitie: And hath referred the Consideration of the Reasons and Causes thereof to the Commissioners to be chosen by his Majestie, with Consent of the Estates in Manner contained in the said Act. Like-as also his Majestie and Estates by another Act and Ordinance, hath statute, ordained, and declared that each Heritor and Life-renter of Lands respective, shall have the leading and drawing of their own Teinds, the same being first truly and lawfully valued, and they paying therefore the Price after-specified, in case they be willing to buy the same, or otherwise, for the yearly Payment of the Rate of Teinds after-specified. Like-as his Majestie and Estates have by the said Act, found and declared, that the true and just Rate of Teind is, and shall be the Fifth Part of the constant Rent, which lik Land payes in Stock and Teind where the same are valued jointly. And where the Teinds are valued apart and severally, that the just Rate thereof is and shall be such, as the same is already by vertue of the former General Commission of Surrenders and Teinds proved and valued to. Or else shall be hereafter valued and proved before the Commissioners to be appointed by his Majestie with Consent of the Estates, deducting the Fifth Part thereof for the Ease of the Heritors: Reserving alwaies Libertie to such as shall find themselves enormly hurt by the leading of the saids Valuations, to pursue for rectifying of the same before the saids Commissioners to be appointed by his Majestie and Estates foresaid; like-as his Majestie and Estates have by the said Act found and declared, that the Price of all Teinds which may be sold and annalied, consisting either in Money, Victual, or other Bodies of Goods, is, and shall be ruled and estimate according to *Nine Yeares Purchase*. The Prices of Victual and other Bodies of Goods, whereof the Teinds consist, being redacted in Money according to the Worth and Prices of Victual and Goods in ilk Part of the Countrie, to the which the same is and shall be prized and estimate by the saids former Commissions of Surrenders and Teinds, or by the Commissioners to be appointed by his Majestie, with Consent of the Estates: And also have found and declared, that ilk Heritor in the Kingdome being willing to buy his own Teind from the Titulars, having Power to sell the same, shall be obliged to buy the Teynd of his own Lands, except so much as shall be locally assigned to the Minister serving the Cure for his Mainrinance: And to pay the Prices foresaid to the Titulars betwixt and the particular Times and Diets exprest in the said Act. And also have found that the Heritors shall be obliged to give to the*

the Life-renter of the Lands, the leading of their own Teinds for Payment of the Rate of Teind for the same. And also have found, that in all Cafes where Teinds are not coft, that the Heritors or Life-renters of Lands who have the leading of their own Teinds by themselves, their Tenants, and others in their Names, shall be obliged to pay to the Titulars of the saids Teinds the yearly Rate thereof, according to the Order set down and prescribed by the former Commission, or to be set down by the Commissioners to be appointed by his Majestie, with Consent of the Estates, deducting so much thereof as shall be assigned to the Ministers for their Maintainance.

And because fundry Questions may arise anent the Valuations of Teinds and Prices thereof, and anent the Securities to be made by the Titulars to the Heritors who buy their Teinds; and by the Heritors to the Titulars of the Price to be payed for the same, when the Teinds are coft, or for Payment of the Rate of Teind where the same is not coft; and anent the Provisions of the Kirks, with competent Maintainance, and other Particulars mentioned in the said Act. Therefore his Majestie and Estates, by the said Act did referre the Determination thereof to the Commissioners to be appointed by his Majestie and Estates, with these Declarations alwaies, that his Majestie shall have his Annuitie payed forth of the Teinds according to the Tenour of the said Act of Annuitie; and that the Archbishops, Bishops, Parsons, Vicars, and other beneficed Persons being Ministers, and their Successors, should be no farther obliged in any of the Premises, but according to the Provisions and Conditions exprest in the Submission made by the Bishops to his Majestie, which is of the Date the

Day of 1628 Years. And registrate in the saids Books of Surrenders and Teinds, upon the Thirteenth of July, 1631 Yeares. And that the Vicarages of ilk Kirk being a several Benefice and Title, should be severally valued, to the Effect the Titulars and Ministers serving the Cure, who have Right to the saids Vicarages, would not be frustrate of the true Worth of the saids Vicarages. And sick-like, his Majestie and Estates by another Act have found and declared, that his Majestie and his Successors have and shall have undoubted Right to the Superiorities of whatsoever Erections, Few-mails, Few-fermes, and other Casualties thereof, reserving to such Lords and Titulars of Erection who subscribed the General Surrender, the Few-mails, and Few-fermes of the saids Superiorities, ay and while they receive Payment and Satisfaction of the Summe of *One thousand Markes* usual Money of *Scotland*, for ilk Chalder of Few-ferme Victual; and for ilk *Hundred Markes* of Few-

Few-mailes, and for ilk *Hundred Markes* of all other constant Rent of the saids Superiours, not consisting in Victual or Money; and not being naked Service of Vassals, according to the Tenour of his Majestie's General Determination; and conforme to the Conditions therein contained, as in the saids Three Acts of this present Parliament at more Length is exprest.

And forasmuch as it is necessary for the Determination of the Particulars foresaid, and of all such other Points which are fit and expedient for the finishing and full Perfection of the said glorious Worke, anent the Teinds, Maintainance of Ministers and others foresaid, that a Commission be granted by his Majestie, with Consent of the Estates, and by Authority of this present Parliament: Therefore his Majestie, with Consent of the said Estates, hath granted, and by these Presents granteth full Power and Commission to the Persons after following: To wit, Nine of the Clergy, Nine of the Nobility, Nine of the small Barrons, and Nine of the Burgeses: Together with my Lord Chancellour, and Eight Officers of State, *viz.* George Earle of *Kinnowll*, Chancellour, William Earle of *Moreton* Thesaurer, John Archbishop of *Saint-Andrews*, Thomas Earle of *Haddingtown*, Lord Privie Seale, Patrick Archbishop of *Glasgow*, William Earle Marshal, George Earle of *Wintown*, John Earle of *Perth*, John Earle of *Kinghorne*, William Earle of *Dumfries*, William Earle of *Sterling*, Secretary, David Earle of *Southesk*, John Earle of *Traquair*, Thesaurer Depute, John Earle of *Weymes*, Archibald Lord Napier, George Lord *Corstorpheine*, Alexander Bishop of *Dunkell*, John Bishop of *Murray*, John Bishop of *Ross*, Adam Bishop of *Dumblane*, David Bishop of *Brichen*, Andrew Bishop of *Argyll*, George Bishop of *Orknay*, Sir John Hay, Clerk of Register, Sir Thomas Hope, Advocate, Sir George *Elphinstone*, Justice Clerk, Sir James Galloway, Master of Request, Sir Robert Spotswood, Sir James Learmonth, Sir James Lockhart younger of *Ley*, Sir John Charters, Sir Robert Grier, John Boyel of *Kelburne*, Sir William Dowglas, of *Cavers*, the Laird of *Inchemarteine*, the Laird of *Lugtoun*, John Sinklar, John Macknacht, Archibald Tod, Edward Edger, Master Alexander Guthrie, Gabriel Cuninghame, Robert Tailyeour, William Mickle-John, and Master Robert Cuninghame; or any Fifteen of them, there being Three of every Estate, with Three of his Majestie's Officers of Estate. Of which Number of Fifteen, the Lords Chancellor, Thesaurer, and Privie Seal, Archbishops of *Saint-Andrews* or *Glasgow*, Earle Marshall, and Earle of *Wintown*, or any of them shall be one, to meet and convene at *Holy-rude-houfe*, or *Edinburgh*

Edinburgh at such Times and Places as they shall think fit; and there to prosecute and follow forth the Valuation of whatsoever Teinds, Parsonage or Vicarage within the Kingdome, which are as yet *unvalued*. And also to receive the Reports from the Sub-commissioners, appointed within ilke Presbyterie, of the Valuation of whatsoever Teinds, led and deduced before them, according to the Tenor of the Sub-commissions direct to that Effect. And to allow or disallow the same, according as the same shall be found agreeable or disagreeable from the Tenour of their Sub-commissions. And also with Power to rectifie whatsoever Valuations, led or to be led, to the enorme Prejudice of the Titulars, and to the Hurt and Detriment of the Kirk, and Prejudice of the Ministers Maintainance and Provisions, or of his Majesties Annuitie. And for the better expeding and advancing of the saids Valuations, with Power to appoint Committies, or Sub-committies of their owne Number, to receive the Reports of the saids Valuations made or to be made; and to receive, admit and examine Witnesses, and to take Parties Oathes, with their Depositions, where the same is referred to Oath; and to give such farther Power to the saids Committies or Sub-committies of their owne Number, as they shall think fit for the Good of the Worke, and speedy finishing of the same; and sick-like, with Power to them if need be, to appoint Sub-commissioners, not being of their own Number within any Parochin or Presbyterie of the Countrie, for leading and deducing of the saids Valuations, and to receive the Reports thereof, allow or disallow of the same: And generally with Power to them, to set down whatsoever other Order or Course which shall be thought fit and expedient for Dispatch of the saids Valuations, rectifying thereof, or final closing of the same. And sick-like, with Power to the saids Commissioners, or any Fifteen of them, as said is, there being Three of ilk Estate, with any one of the Persons of the *Quorum* above-specified, after the Closing and Allowance of the Valuations of ilk Kirk and Parochin. To appoint, modifie, and set down a *constant and local Stipend and Maintenance* to ilk Minister, to be payed out of the Teinds of ilk Parochin, according to the Tenour of the Acts above specified. Referring like as his Majestie referres with Consent of the saids Estates, to the saids Commissioners, the Trial of the Reasons and Causes which may move the said Commissioners *to go beneath the Quantitie of Eight Chalder of Victual, or of Eight hundred Markes* of Money proportionally, in Manner contained in the said Act. And sick-like, with Power to the saids Commissioners, *to divide* ample and spacious Parochines, where the same shall be found
§
necessarie

necessarie and expedient, or to unite divers Kirks in whole or in part to others; and to ratifie and allow after Tryal and Consideration such Union or Dismembring of Parochines, as hath been formerly made by vertue of the former Commissions, and sick-like with Power to them, to appoint and provide for such other pious Uses in each Parochin, as the Estate thereof may bear. And sick-like, with Power to the said Commissioners, as said is, to take order that every Heritor and Life-renter of Lands, shall have the leading of their own Teinds, Parsonage and Vicarage thereof, they paying the Price contained in the Act above specified, in case they be willing to buy the same from the Titular, having Power to sell, or otherwise paying the Rate of Teind exprest in the foresaid Act; and to that Effect, with Power to the said Commissioners to set down the Prices of sellable Teinds, according to the Worth thereof in each Part of the Countrey, where the same grow and are bred; and also with Power to them to set down such good and ample Securities, as may stand by Law, both for the Buyers of Teinds, to the Effect, the Titulars may be fully denuded in their favours: and also for Securitie to the Titulars and Sellers of the Price due to be payed to them for the said Teind; and also to set downe the Securitie in favour of the Titulars and of the Ministers, so farre as concernes the Maintenance assigned to them, for good, thankful, and timous Payment of the Rate of Teind, where the same are not, or cannot be sold. And sick-like with Power to the saids Commissioners, to discusse and determine all Questions which may arise betwixt the Titulars and Heritors, anent the Price of Teinds, according to the Nature and Qualitie of the Rights to be sold, whether the same be heritable or temporal, and to proportionate the Price accordingly: And also to divide the Price of Teinds betwixt Heritors and Life-renters, thereof; and betwixt Titulars, Tacksmen, and others who have severall and distinct Rights to the saids Teinds sellable, according to the Qualitie of their Rights: and also with Power to them, to cause the Titulars who sell their saids Teinds, to exhibit their Rights and Titles, to the Effect that they may be lawfully denuded thereof, in favour of the saids Heritors and Life-renters *respective*, without Prejudice always to his Majesty's Annuitie, to be payed forth of the said Teinds by the saids Titulars of Teinds, or Heritores, or Life-rentars of Lands, according to the Tenor of the said Act of Annuitie; and generallie with Power to the saids Commissioners, to decide and determine in all other Points, which may concerne the leading and drawing of Teinds, the selling and buying of the same, or Payment of the Rate thereof, contained in the Acts of Parliament above-specified,

or

or set downe in his Majesty's general Determination: With this Provision and Declaration alwayes, that the Archbishops, Bishops, Parsons, Vicars, and other beneficed Persons, being Ministers, and their Successors, shall be no farther bound but according to the Provisions and Conditions exprest in the Submission made by the Bishops to his Majesty, which is of the Date the Day of 1628 Yeares, and registrate in the Books of Commission of Surrenders and Teinds, upon the Thirteenth Day of July, 1631. Which Provisions and Conditions are holden as exprest herein; and also with this Provision, that the Vicarages of each Kirk being a severall Benefice and Title from the Parsonage; shall be severally valued, to the Effect the Titulars or Ministers serving the Cure, who have Right to the saids Vicarages, be not frustrate of the true Worth of the saids Vicarages; and sick-like, because by the Act above-specified; made anent Superiorities of Erections in favour of his Majesty, there is special Reservation made to such Titulars and Lords of Ereccion, as have subscribed the General Surrender of the Few-mails, Few-fermes, and other constant Rent of the saids Superiorities, ay and while they be payed of the Price thereof contained in his Majesty's General Determination, and according to the Provisions specified therein. Therefore his Majesty and Estates give full Power to the saids Commissioners, or any Fifteen of them, as said is, to call and convene before them the Lords of Ereccion, and others having Right to the saids Few-mails and Few-fermes, and other constant Rent of the Superiorities of Kirk-lands, at such particular Diets as they shall appoint, and to urge the saids Lords of Ereccion and others foresaid, to give up their Rentals of their said Few-mails, Few-fermes, and other constant Rent foresaid of their saids Superiorities, conforme to his Majesty's Decreet and Determination, given out thereanent; and with Certification as is therein contained, and to liquidat the other constant Rent of the saids Superiorities, not consisting in Victual or Silver: To the Effect that after the full Tryal of the said Rental and Liquidation thereof, the saids Lords of Ereccion may receive the Price of a *Thousand Marks* for each Chalder of Few-fermes, and for each *Hundred Marks* of the other constant Rent, being reducted in Money in whole or in part proportionally from his Majesty's Thesourers, Principal or Depute, and in case of the Absence and Refusal of the saids Titulars and Lords of Ereccion, that the same may be consigned in the Hands of the Clerke to the saids Commissioners, to remaine consigned for their Behove; after the whole Consignation, it shall be lawful to his Majesty's Thesourers, Principal or Depute, to uplift, receive,

and

and intromet with the saids Few mails, Few-fermes, and other constant Rent foresaid, of all Yeares and Termes after the said Consignation, according to the Tenor of the said general Determination; and also with Power to the saids Commissioners as said is, to discuss and determine all Questions that may arise betwixt the saids Lords of Ereccion and the Heritors of the Ground, Pensioners, Life-renters, and other pretending Right to the saids Few-mails and Few-fermes, and to divide the Price amongst them, according to the Qualitie of their Rights, and all other Questions anent the Few-mails, Few-fermes, and other constant Rent foresaid: Which by his Majesties general Determination is referred to the Determination of the Commissioners to be appointed to that Effect; and whereas it may fall out that some of the Commissioners now appointed by his Majestic and Estates, may be unable to attend the Service, through Death, Sicknesse, or some other notour and known Impediments; therefore his Majestic reserves to himself the Nomination of such other Person in their Places, as his Majestic shall think fit, whom his Majestic by his Letters shall recommend to the saids Commissioners, to the Intent they may receive and admit them upon the said Commission, and take their Oathes for faithful Discharge of the same. And his Majestic and Estates ordaine this present Commission to endure unto the last Day of *December* in the Yeare of God, 1635 Yeares: and farther during his Majesties Pleasure, and aye and while the same be expressly discharged by his Majesties Warrant, or Letter to that Effect. And his Majestic with Consent of the Estates foresaids, findes, declares, and ordains the Acts, Decretes, and Ordinances of the Commissioners foresaids, and of the other Persons, who shall be surrogat in their Places by his Majestic in manner foresaid, in the whole Particulars above-specified, and every one of them; to have the Strength, Force, and Authoritie of a Decrete, Sentence, and *Act of Parliament*, and ordaines the Lords of Session to grant and direct Letters of Horning, Poynding, and others thereupon, upon a simple Charge of Ten Dayes, or otherwise as shall be found necessary. Attour for clearing of all Doubts and Difficulties which may arise anent the rectifying of Valuations, or other particular Heads following: His Majestic and Estates have declared and declare, that where Valuations are lawfully led against all Parties having Interest, and allowed by the former Commissioners according to the Order observed by them, that the same shall not be drawne in question nor rectified upon Pretence of enorm Lesion, at the Instance of the Minister, not being titular, or at the Instance of his Majesties Advocat, for and in respect of his Majesties

ties Annuitie, except it be proved that Collusion was used betwixt the Titular and Heritor, or betwixt the Procurator-Fiscal and the Titulars, and Heritors, which Collusion is declared to be where the Valuation is led, with Diminution of the Third of the just Rent presently payed, and which Diminution shall be proved by the Parties Oathes. And sick-like it is declared that the Provisions contained in the foresaid Submission made by the Bishops, whereof Mention is made in the foresaid Act of Tithes, and which is repeated in this Commission, shall be restricted to that whereof Archbishops, Bishops, Parsons, Vicars, or other beneficed Person being Ministers, Colledges, Hospitals, and other Donations to pious Uses, were in actual and real Possession the time of the said Submission, which shall remaine with them in Quantity and Quality, according to the Tenor of the saids Provision: and if any Question shall arise betwixt the saids Archbishops, Bishops, Parsons, Vicars, and other beneficed Persons foresaids, anent the leading of Teinds, that the same shall be referred to his sacred Majestic, and to his Royal Pleasure to be signified thereanent. And also anent Laick Patronages pertaining to any his Majestic's Subjects, before the Yeare of God, 1561 Yeares: His Majestic and Estates declare that the same falls within the Com-passe of the general Submission made to his Majestic, and his Majestic's Determination given thereupon, and that allennarily in so farre as concernes a competent Maintenance, to be locally payed forth of each Church, to the Minister and his Successors; and anent the Teinds of other Mens Lands: And anent the Annuitie to be paid to his Majestic forth of the Teinds of the said Kirk: And as to the remanent Teinds of the same to pertaine to Laick Patrons in Price or Rate thereof in all Cafes, where the foresaid Laick Patrons were in Possession of the Teinds thereof, by the Space of Seven Yeares within the Fifteen Yeares immediately preceeding the Date of the said general Submission; with this Declaration, that where the Titulars or the Ministers provided to the saids Laick Patronages and Kirks thereof, were in Possession of the Benefices foresaids, and Fruites and Rents thereof, either by leading of the Teinds, or by up-lifting and intrometting with the whole Rents thereof, by the Space of Seven Yeares of Fifteen Yeares immediately preceding the said Submission; in these Cafes, the Difference betwixt the said Laick Patrons, and the Titulars, and Ministers, shall be referred to his sacred Majesty, and to his Royal Declaration to be given thereanent, and ordaines all former Commissions anent the Premisses,

T

to

to cease in time coming, and this only to stand in Force in time to come.

Act 1707. N^o IX. Vol. III. p. 764.

9. *Act anent Plantation of Kirks and Valuation of Teinds.*

OUR sovereign Lady, and the Estates of Parliament, considering the great Prejudice that does redound to this Nation through the Want of an established and fixed Judicature, which may cognosce and determine in such Causes and Things, as by former Parliaments were referred to their *Commission for Plantation of Kirks, and Valuation of Teinds*, and through the Loss of the Registers of that Court, which were burnt in the late Fire that happened in this Place; *therefore*, her Majesty and the said Estates, do hereby *impower, authorize, and appoint* the Lords of Council and Session to judge, cognosce, and determine in all Affairs and Causes whatsoever, which by the Laws and Acts of Parliament of this Kingdom were formerly referred to, and did pertain and belong to the Jurisdiction and Cognizance of the Commissions formerly appointed for that Effect, as fully and freely in all respects as the said Lords do or may do in other Civil Causes; and particularly, but Prejudice to the Generality foresaid, to determine in all Valuations and Sales of Teinds, to grant Augmentations of Ministers Stipends, Prorogations of Tacks of Teinds, to *disjoin* two large Paroches, to erect and build new Churches, to annex and dismember Churches as they shall think fit, *conform* to the Rules laid down, and Powers granted, by the Nineteenth Act of the Parliament One thousand Six hundred and Thirty-three, the Twenty-third and Thirtieth Acts of the Parliament One thousand Six hundred and Ninety, and the Twenty-fourth Act of the Parliament One thousand Six hundred and Ninety-three, in so far as the same stand unrepealed: The transporting of Kirks, disjoining of Two large Paroches, or erecting and building of new Kirks, *being always with the Consent of the Heretors* of Three Part of Four at least of the Valuation of the Paroch, whereof the Kirk is craved to be transported, or the Paroch to be disjoined, and new Kirks to be erected and built, the Minister in the mean time to serve the Cure in the present Kirk of the Paroch; and for that Effect *appoints* the said Lords to meet and sit each *Wednesday* in the Afternoon during the Time of Session, and to call and discuss the said Causes summarily,

marly, conform to a Roll to be made up and kept of the sament. And for supplying the lost Registers of that Court, her Majesty and the said Estates, do hereby *appoint and ordain*, that any authentick Extracts from the said Records be brought in, and being presented to the said Lords, be recorded in a particular Register, and that the said Extracts so brought in, be kept by the Lord Clerk Register, and his Deputs, Clerks to be appointed by him for that Effect, as their Warrants, which shall be held and reputed as valid and authentick as the principal Warrants themselves, if the same were yet extant: And the Lord Register, and his Deputs, are ordained to give a new Extract *gratis*, to every Person that shall give in an old Extract, immediately upon Delivery thereof; and that Extracts from these new Records shall make the like Faith in Judgment, and out-with the same, as the Extracts from the old Registers of the Commission were wont to do before the same were burnt. And further, impowering the said Lords, upon such Evidents and Adminicles as they shall see Cause, to make up the Tenour of such Decrees, in manner above-mentioned, whereof Extracts are amissing, and the Registers lost in the said Fire; declaring hereby, that the Lord Register, and his Deputs, to be appointed by him, as said is, shall have the sole and only Power and Privilege of raising and subscribing of the Summonses and Diligences relating to the Affairs above-written, the same always passing her Majesty's common Signet as formerly; and also declaring, that the Macers of Privy-Council, who by their Gifts did attend and officiat before the said Lords of Session, in the Matter committed to them by this Act, as they were in Use to do before the Commission, and none else. And lastly, it is hereby declared, That this present Act and Commission shall be subject, nevertheless, to such Regulations and Alterations as shall be made by the Parliament of *Great Britain*.

Act 75, 1540.

The Ordour of Summounding of all Persons in Civil Actions.

ITEM, For Eschewing of great Inconveniencys and Fraud done to our Sovereign Lord is Lagis, by summounding of them at their dwelling Places, and oftimes falsely, and getis never Knowledge thereof: It is statute and ordained, that in Times cumming, quhair ony Officiar or Scheriffe, in that Parte, passis at Commande of the King's Letters, or the Sherriffs, Stewards,

ards, Barronies, or Bailiffs, Precept to summond onie Party: And if they cannot apprehend them personally, they shall pass to the Zett or Door of the principal dwelling Place, where the Person to be summoned dwells, and has there actual Residence for the Time, and there shall desire to have Entres; quhilk gif it be granted, they shall first schaw the Cause of their coming; and gif they cannot get the Partie personally, they shall schaw their Letters or Precept before the Servandes of the House, or other famous Witness; and shall execute their Offices and Charge; and thereafter shall offer the Copie of the saidis Letters, or Precept, to ony of the Servands; quhilk gif they refuse to do, that they affix the samin upon the Zett or Dure, if the Persons summond, and sik-like gif they get no Entres, they first knock, and at the Door Sex Knockes, they shall execute their Office before famous Witness, at the said House and dwelling Place, and affix the Copy upon the Zett or Dure thereof, as said is; quhilk shall be leifull and sufficient Summounding, and delivering of the Copie; and the Partie, nor Officiar, shall not be halden to give any uther Copie, but at their awin Pleasure; and everie Officiar in his Indorfation shall make mention of his awin Execution in manner foresaid: And the Partie at quhais Instance the Letter, or Precept, is direct, shall pay to the Officiar, Executour, the Expences of the Copie affixed, as said is; and shall be taxed, and given again to him at the giving of the Decreet or Sentence: Gif he happenis to obtaine, and gif the Officiar beis foundin culpable in the Execution of his Office, he shall be put in our Sovereign Lordis Prison, and punished in his Person and Gudes, at the King's Grace Will.

12th Act, 1693.

Act concerning Citations to the First and Second Dyet.

THEIR Majesties, with Advice and Consent of the Estates of Parliament, for the greater Dispatch and Facilitating of Proceses, do hereby rescind that Clause in the Act of Parliament 1672. intituled, *Act discharging Second Summons*, which requires the Second Citation to be given after the elapsing of the first Dyet of Compearance: And declare, That in all time coming it shall be lawful to give Citation for the First and Second Dyet

of Compearance, at one and the same time, providing the same be done by a Messenger at Arms, as was the Use of Summons for the Second Dyet: And further it is hereby expressly provided, That all Copies of Summons, Charges, Inhibitions, Arrestments, or other Letters whatsoever, given to the Party, shall bear at Length, and not in Figures, the Day and Date of the Delivery thereof; as also the Names and Designations of the Witnesses, in such sort as the Execution and Indorfation did, and doth bear the same; certifying the Messenger who shall omit to insert the said Day and Date, and Witnesses, in his Copy, that he shall incur Deprivation and Tinsel of his Office.

U

No. II.

N^o. II.

Extract Proceedings of the General Assemblies 1749. and 1750. anent the Augmentation of Ministers Stipends. 1750.

At Edinburgh, Monday the Fifteenth Day of May One thousand Seven hundred and Forty-nine Years.

THE which Day the General Assembly of the Church of Scotland having had transmitted to them, from their Committee for Overtures, an Overture with relation to the Reasonableness and Necessity of an Augmentation of the Generality of the Ministers Stipends in this Church, the same was twice read over; the Tenor whereof follows: "*Edinburgh, May the Thirteenth, One thousand Seven hundred and Forty-nine, the Committee of Overtures had laid before them Instructions from Five Synods, and Twenty-five Presbyteries, to the Commissioners from their several Bounds, to insist at this Assembly for the Necessity of an Augmentation of Stipends in Scotland; and for the Assembly's applying to the Legislature for that Purpose; together with an Overture from a Sixth Synod, that the Assembly should give that Attention to this Affair, that a Matter of so great Importance and Delicacy challenges: And if any probable Measure can be fallen upon, that may answer this End, that the greatest Unanimity should be studied in following it: Which being considered by the Committee, they did unanimously agree, that an Augmentation of the Generality of Ministers Stipends in this Church was highly reasonable and necessary; and by a very great Majority do give it as their Opinion, that the Assembly should take this Matter under Consideration, at their Diet on Monday next; and should resolve on an humble Application to the King and Parliament for the Purpose above-mentioned.*" The General Assembly agreed to delay Consideration thereof until *Wednesday* next; and resolved to meet at Nine o'Clock in the Morning; and, previous to any other Business, to proceed to consider the said Overture: And it is now ordered, that all the Instructions or Overtures from

George Wisbart.

from Synods or Presbyteries, be lodged in the Clerk's Hands, twixt and that time.

At Edinburgh, Wednesday the Seventeenth Day of May One thousand Seven hundred and Forty-nine Years: The General Assembly, pursuant to their Resolution on *Monday* last, proceeded to the Consideration of the Overture respecting the Augmentation of Stipends of the Ministers of this Church; and having caused the foresaid Overture to be again this Day read, the Assembly, after long Reasoning thereupon, agreed to appoint a Committee to take that Matter under Consideration; and to report what shall, upon proper Inquiry, appear to them, to the next General Assembly, in order to their making Application to Parliament for an Augmentation of Stipends, or providing such other Remedy as to them shall seem meet; and appoints the following Persons; *viz.* Messieurs *Andrew Dickson, Robert Hamilton, Alexander Mac Lagan, Robert Dalglish, Alexander Webster, and John Scott,* Ministers; the Earl of *Marchmont,* Lord President, Lord *Drumore,* Lord *Shewalton,* Mr. *Robert Dundass,* and *Baillie Forrest,* Ruling Elders; to prepare a Draught of the Instructions to be given to the said Committee, and bring in the same to the Assembly on *Friday* Morning; and appoints them to meet To-morrow at half an Hour after Nine in the Morning, in the Laigh Council-House.

At Edinburgh, Friday the Nineteenth Day of May One thousand Seven hundred and Forty-nine Years: The Committee named upon *Wednesday* last to draw up the Instructions to be given to the Committee then resolved to be appointed for having under Consideration what concerns the Augmentation of Ministers Stipends, brought in their Report: Which being first read all over, and then Paragraph by Paragraph, the same was, after some Amendments, approved of by the Assembly, as follows; *viz.* The Committee is hereby instructed, *Primo,* To get an Account of the just Value of all the Stipends in *Scotland;* by how many Heretors they are paid; what Part of them in Money, what in Victual; together with the Extent of their Glebes. *Secundo,* They are empowered to inquire into the true Extent and State of the Tythes. *Tertio,* They are instructed to inquire into all other Funds that may be applied, either with or without Authority of Parliament, for augmenting of Stipends. *Quarto,* They are further authorized to address Persons in Power, Members of Parliament,

George Wisbart.

nient, the Nobility and Gentry of the Landed-Interest in *Scotland*, for their Countenance and Assistance, for promoting the Relief of Ministers that are not sufficiently provided. *Quinto*, The Committee are warranted by the Assembly to call from the Church's Funds for what Money may be found necessary, for preparing this Matter for the next General Assembly. *Sexto*, The Commission are hereby appointed to give their Advice and Assistance to the Committee, so often as they shall find it necessary to ask the same. *Septimo*, The several Presbyteries are to signify to the Committee, as soon as possible, their Opinion concerning the several Particulars aforesaid. *Octavo*, Presbyteries and Ministers are appointed to give to the Committee such Information with regard to the above Particulars, or such other Facts or Things, as the Committee shall find necessary, and shall require; and that, upon such Requisition made to the Moderator, he is hereby appointed to call a Meeting of his Presbytery, *pro re nata*. Lastly, The Committee shall, after full Inquiry, prepare a Plan of the whole projected Augmentation, and lay the same before the next General Assembly: And it is appointed, that there be Five stated Meetings of the said Committee in the Trustees Hall, for the Widows Scheme, at Ten o'Clock Forenoon; the first Meeting upon *Tuesday* next; other Three on the *Tuesdays* immediately before each of the other Quarterly Meetings of the Commission, in *August*, *November*, and *March*; and the last on the *Tuesday* immediately before the Meeting of the next General Assembly: And they are hereby empowered to adjourn themselves to such other Times and Places as they shall think proper: The Moderator of this Assembly shall be Moderator of the said Committee; and the Clerks are appointed to attend the Committee at their several Diets: And in case of their Absence, the Committee are hereby empowered to choose their own *Præses* and Clerk.

And the General Assembly appointed the following Persons to be the said Committee; *viz.* Mr. *Patrick Cuming*, one of the Ministers of *Edinburgh*, their Moderator; Masters *Thomas Pitcairn* at *West Kirk*, *James Stevenson*, *George Wishart*, and *Alexander Webster*, at *Edinburgh*, *Alexander Bryce* at *Kirknewtown*, *Robert Dalgleish* at *Linlithgow*, *Henry Lundie* at *Abercorn*, *George Ellis* at *Carridden*, *John Buchanan* at *Covington*, *John Hay* at *Peebles*, *Alexander Robertson* at *Eddleston*, *Thomas Turnbull* at *Borthwick*, *William Carlyle* at *Prestonpans*, *Andrew Dickson* at *Aber-*

George Wishart.

Aberlady, *Edward Steedman* at *Haddington*, *George Buchannan* at *Tynningham*, *Robert Monteith* at *Longformacus*, *Andrew Chatto* at *Marbottle*, *John Bell* at *Gordon*, *Walter Stewart* at *Ash Kirk*, *Gabriel Galan* at *Drysdale*, *John Scott* at *Dumfries*, *George Duncan* at *Lochrutton*, *William Cunningham* at *Durisddeer*, *Thomas Mutter* at *Leffwalt*, *Robert Finlay* at *Inch*, *George Reid* at *St. Evox*, *William Steel* at *Sorn*, *William Allan* at *Barr*, *Patrick Wodrow* at *Torboltoun*, *Robert Baird* at *Dunlop*, *Robert Hamilton* and *James Miller* at *Hamilton*, *William Hamilton* at *Douglas*, *Niel Campbel*, Principal of the University of *Glasgow*, *William Craig* at *Glasgow*, *William Leechman*, Professor of Divinity in the University of *Glasgow*, *John Allan* at *Row*, *Dougald Allan* at *Innerhauken*, *Duncan Macfarlane* at *Drymen*, *Patrick Campbel* at *Inverary*, *Alexander Mac Logan* at *Little Dunkeld*, *James Bishop* at *Kincleaven*, *James Lindsay* at *Dumbarrie*, *James Thomson* at *Dumfermline*, *Daniel Mac Queen* at *Sterling*, *Robert Spears* at *Burnt-Island*, *John Hill* at *St. Andrews*, *Robert Traill* at *Kettins*, *Thomas Randal*, at *Inchfure*, *David Blair* at *Brichen*, *Robert Pollock*, Professor of Divinity in the Marshal College of *Aberdeen*, *Theodore Gordon* at *Kinnetmont*, *George Grant* at *Boharm*, *Alexander Irvine* at *Elgine*, *Robert Dunbar* at *Dyke*, Ministers; the Right Honourable *Alexander Earl of Levin*; *Hugh Earl of Marchmont*; *Robert Dundas* of *Arniston*, Lord President of the Court of Session; *William Grant* of *Prestongrange*, Lord Advocate of *Scotland*; *Charles Erskine* of *Tinwald*, Lord Justice Clerk; *Hugh Dalrymple* of *Drumore*, *Alexander Fraser* of *Strichen*, and *Patrick Boyle* of *Shewalton*, Three of the Senators of the College of Justice; *John Maul* of *Inverkeillor*, One of the Barons of his Majesty's Court of Exchequer; *Robert Dundas* younger of *Arniston*, Esquire; *Alexander Hume* of *Eccles*, One of his Majesty's Solicitors; *Alexander Hamilton* of *Pencaitland* Esquire, *Archibald Mac Aulay* Esquire, Lord Provost of *Edinburgh*, *Hugh Hathorn* and *John Forrest*, present Baillies of *Edinburgh*, Mr. *Robert Craigie* of *Glendorg*, Advocate, Mr. *David Dalrymple*, Procurator for the Church, *Colin Campbel* of *Kilbride* Esquire, One of the Commissioners of his Majesty's Customs, Mr. *Robert Ramsay* of *Blackraig*, Mr. *Andrew Pringle*, Advocate, Mr. *Robert Dalrymple*, Writer to the Signet, *William Wallace* of *Cairnhill*, *James White* of *Overstockbridges*, *John Murdoch* Esquire, late Provost of *Glasgow*, *Alexander Mac Millan*, Writer to the Signet, *James Dundas* of *Philpstoun*, and *John Belches* of *Innermay*, Advocates, Ruling Elders. And the Assembly declares Seven of the

X

George Wishart.

the above-named Members to be a *Quorum*. The Moderator, at the Desire of the Assembly, gave Thanks, in their Name, to the Honourable Members, for the Assistance they had given in preparing the above Instructions; and desired the Continuance of their good Offices in this important Affair.

At *Edinburgh, Saturday* the Twentieth Day of *May* One thousand Seven hundred and Forty-nine Years: Upon reading the Minutes of Yesterday, the General Assembly appointed, that the Instructions agreed upon to be given to the Committee named to have under Consideration what concerns the Augmentation of Ministers Stipends, be forthwith printed; and Copies thereof transmitted to every Presbytery in this Church.

At *Edinburgh, Saturday* the Twelfth Day of *May* One thousand Seven hundred and Fifty Years: The Committee appointed by the last General Assembly, to have under Consideration what concerns the Augmentation of Ministers Stipends, gave in their Report to this Assembly: And the General Assembly, having caused to be read the Appointment of the last Assembly on that Committee, did there-after order the foresaid Report to be read all over: And the General Assembly, having heard the said Report, resolved to take the Matter under Consideration upon *Monday* next in the Forenoon; and in the mean time ordered the said Report to be printed; and Copies thereof given to Members.

At *Edinburgh, Monday* the 14th Day of *May*, 1750 Years, the General Assembly, pursuant to their Resolution made on *Saturday* last, proceeded to consider what relates to the Augmentation of the Stipends of Ministers: And having caused to be read over the Act of last General Assembly, appointing a Committee to have that Matter under Consideration, with the particular Instructions given to that Committee, they caused also to be read again the Report of the said Committee, brought in upon *Saturday* last: The Tenor whereof follows; *viz. Edinburgh May* the 9th, 1750. To the Venerable Assembly of the Church of *Scotland*, to meet at *Edinburgh* the 10th Day of *May*, 1750. the Report of the Committee appointed by the last General Assembly, to have under Consideration what concerns the Augmentation of Ministers Stipends. The Committee, according to the Instructions and Powers given them by the last General Assembly, sent Letters to all the Presbyteries in *Scotland*, with proper

George Wisbart.

proper Queries to the several Ministers, relating to the Facts which the Committee were directed to inquire into; and such other Things, as appeared to them of Consequence, for answering the Assembly's Design: In which Letters they also desired Presbyteries to apply to the Nobility and Gentry, within their Bounds, in the most proper and respectful manner, in order to obtain their Concurrence in promoting any proper Plan that might be formed for the Relief of such Ministers as are not sufficiently provided. To assist them further in their Inquiry into the proper Facts, they procured from Mr. *Joseph Williamson*, Clerk to the Commission of Teinds, an attested Abstract of the Stipends of 343 Parishes, taken from the Records of that Court. By a Calculation of the necessary annual Expence of a Minister's Family, it appeared to the Committee, that Ten Chalders of Victual, Oatmeal, and Bear, or the Value of it in Money, according to the usual Conversion in the Sale of Lands in the Parts of the Country where the respective Parishes lie, is no more than a moderate Provision for Ministers all over *Scotland*: And therefore they give it as their Opinion, that the above-mentioned Quantity of Victual, or the Value of it in Money, according to the usual Conversions in the several Parts of the Country, is reasonable to be proposed as the *Minimum* of Ministers Stipends all over *Scotland*: That the proposed Augmentation should arise out of the Tythes, the Law having considered these as the proper Fund for Augmentations; and that where the Tythes are exhausted, or where the Parishes are very small, it ought to be considered how far, in such Cases, the augmenting of Stipends may be effectuated, by Annexations; and in the mean time some Funds, such as the Bishops Rents, &c. (for which an humble Application may be made to his Majesty), might be applied for the Support of the present Incumbents, until such Annexations take place. It being represented to the Committee, that the enlarging of the present Glebes would be of great Consequence, and the most beneficial Method of augmenting Ministers Stipends, at least in Part, they propose, that in case of obtaining any Addition to the legal Glebes, a proportional Deduction should be made from the Ten Chalders of Victual, or its Value: The Committee give it as their Opinion, that the Things now proposed, in order to the Augmentation of Ministers Stipends, cannot be made effectual, without the Aid of an Act of Parliament; and submit it to the Wisdom of the General Assembly, if it may not be proper to apply to Parliament for that Purpose the next Session thereof, that shall be

George Wisbart.

be held after the Meeting of this Assembly. It being represented by the Synod of *Orkney*, and with respect to the Presbytery of *Zetland*, that the Victual in these Countries is far inferior in Value to what it is in neighbouring Shires, at the same time that the Rate of Living is equally high; the Committee do therefore give it as their Opinion, that the *Minimum* of Stipends in *Orkney* and *Zetland* should be a Quantity of Victual equal in Value to Ten Chalders of Victual in the Shire of *Sutherland*, or the Value in Money of such a Quantity of Victual: And it being represented, that in *Merse* and *Teviotdale*, the Price of a Chalders of Victual, according to the usual Conversion, is not equal to what it is in the *Lothians*, at the same time that Living is equally dear; therefore the Committee proposes, that the *Minimum* of Stipends in *Merse* and *Teviotdale* should be Ten Chalders of Victual, or its Value, according to the usual Conversion; together with as much Money, as to make up the Whole to 1000 *l. Scots*, or 83 *l. 6 s. 8 d.* Sterling. The Committee further proposes, in order to lessen the Expences of Processes for Augmentations, that, instead of the present Way of summoning Heretors in these Cases, the Charges of which are often very considerable, especially in remote Places, the Method of sitting them might be summoning them at the Church-Door, by a Messenger, and the Minister's Writing to non-residing Heretors; the last of which should be instructed by a Certificate under the Minister's Hand, according to the present Practice, in the Case of repairing Churches and Manfes. The Committee, considering also the Hardships and Expence to which many Ministers are subjected, from the dilatory Payment of their Stipends, are of Opinion, that it might be a considerable Remedy to the said Grievance, if a Law was obtained, enacting, That in case the Stipend, or any Part of it, shall not be paid at the first Term of *Whitsunday*, or *Martinmas*, after it becomes payable; then it shall bear Interest from the Term of Payment. The Committee do further report, That in Return to the Letters and Queries sent to the Presbyteries, they have received Reports concerning 780 Benefices, and other Facts respecting the Parishes these belong to; from which, together with the Account of 53 Stipends more contained in the attested Abstract, from the Records of the Commission of Teinds, they have caused insert into a Book, which they had ordered to be prepared for that Purpose, a State of 833 Benefices, and other Facts relating to these, reduced to proper distinct Columns: And from the said Scheme-book, the Committee have caused draw out an

Abstract

George Wishart.

Abstract of the principal Facts, which is herewith produced: From whence it appears, that of those 833 Benefices, separating what is allowed for Communion-Elements, there is One under 25 *l.* Sterling; Three above 25 *l.* and not higher than 30 *l.*; 12 above 30 *l.* and not higher than 35 *l.*; 25 above 35 *l.* and not higher than 40 *l.*; 106 above 40 *l.* and not higher than 45 *l.*; 126 above 45 *l.* and not higher than 50 *l.*; 84 above 50 *l.* and not higher than 55 *l.*; 119 above 55 *l.* and not higher than 60 *l.*; 94 above 60 *l.* and not higher than 65 *l.*; 119 above 65 *l.* and not higher than 70 *l.*; 38 above 70 *l.* and not higher than 75 *l.*; 27 above 75 *l.* and not higher than 80 *l.*; 22 above 80 *l.* and not higher than 85 *l.*; Seven above 85 *l.* and not higher than 90 *l.*; Nine above 90 *l.* and not higher than 95 *l.*; 12 above 95 *l.* and not higher than 100 *l.*; Three above 100 *l.* and not higher than 105 *l.*; Two above 105 *l.* and not higher than 110 *l.*; Eight above 110 *l.* and not higher than 115 *l.*; 16 of 138 *l.* 17 *s.* 9 *d.* $\frac{2}{3}$ Parts of a Penny: And that the Total of these Benefices, deducting what is upon the Whole allowed for Communion-Elements, amounts to 50,266 *l.* 15 *s.* 5 *d.* $\frac{1}{2}$; and in these are included Stipends, that are not paid out of the Tythes: And it is to be observed, that 65 are under the present legal *Minimum* of 800 Merks, or 44 *l.* 8 *s.* 10 *d.* $\frac{2}{3}$ Sterling; and 182 have no Allowance for Communion-Elements. The Committee further report, that, with respect to Glebes and Grass, they have only received Reports relating to 774 Benefices, whereof 62 have no Allowance, either for Glebes or Grass; 255 have Glebes, but no Grass, or Allowance for it; and 457 have both Glebes and Grass; but severals are under the Legal, as appears more particularly from the Abstract: And these Two Numbers, who have either Glebes or Grass, amount to 712: And the total Value of their Glebes, including the Grass, is computed, according to the Reports, to be, in all, 2855 *l.* 11 *s.* 8 *d.* It follows, that each is worth, at a Medium, 4 *l.* 2 *d.* $\frac{1}{2}$. And they further report, that by a Calculation formed upon the Account of the Tythes of 324 Parishes contained in the attested Abstract before-mentioned, it appears that the Tythes in *Scotland*, not affected by Ministers Stipends, will amount to near 60,000 *l.* Sterling: And tho' the State of the Tythes taken from that Abstract, may not be quite accurate; yet these Inaccuracies will have but very small Influence on the general Conclusion. Upon the Whole, the Plan of the projected Augmentations, which the Committee offer to the General Assembly, is, *Primo*, To have the *Minimum* of Stipends

Y

George Wishart.

pendis raised to what is above proposed; that is to say, That the *Minimum* all over *Scotland* (except in *Orkney* and *Zetland*, and the Shires of *Merse* and *Teviotdale*, where the Circumstances are somewhat special) shall be Ten Chalders of Victual, or its Value, according to the usual Conversions; that in *Orkney* and *Zetland* it shall be a Quantity of Victual equal in Value to Ten Chalders in the Shire of *Sutherland*, or the Value in Money of such a Quantity of Victual; and that in *Merse* and *Teviotdale*, it shall be Ten Chalders, or its Value in Money, together with as much Money as to make up the whole Stipend to 1000 *l. Scots*, or 83 *l. 6s. 8d.* Sterling. *Secundo*, That in case of obtaining any Addition to the legal Glebes, a proportional Deduction shall be made from the Ten Chalders of Victual, or its Value. *Tertio*, That in Processes for Augmentations, the Law might direct the Method of citing Heretors to be, summoning them at the Church-Door, by a Messenger, and the Minister's Writing to non-residing Heretors: The last of which shall be instructed by a Certificate under the Minister's Hand. *Quarto*, That there may be a Law enacting, that in case the Stipend, or any Part of it, shall not be paid at the first Term of *Whitsunday*, or *Martinmas*, after it becomes payable, then it shall bear Interest from the Term of Payment. And the Question being proposed, and reasoned upon, Whether or not the Committee should move to the General Assembly, to make immediate Application to the Legislature for the Purposes above-mentioned; the same, being put to the Vote, it carried by a Majority in the Affirmative: And accordingly the Committee, considering the Reports they have got, in Answer to the Queries sent to Presbyteries, which give them a clearer and fuller View of the Circumstances of the Ministers of this Church, and the Necessity of the proposed Augmentation, give it as their Opinion to the General Assembly, That they should make immediate Application to Parliament for the Purposes above set forth, the first Session thereof, that shall be held after the Meeting of this Assembly: Whereupon Masters *Alexander Webster*, *James Stevenson*, *James Lindsay*, and *George Wisbart*, craved it might be marked, that they voted against this Opinion of the Committee, for an immediate Application. Signed, in Name of the Committee, by (*Sic sub.*) *Patrick Cuming*, Moderator, *George Wisbart*, Cl. Eccl. Scot.

The General Assembly, having heard the foresaid Report, did, after very long Reasoning upon the whole Affair, come to the following

George Wisbart.

following Resolution; *viz.* The General Assembly did agree, without a Vote, to apply to Parliament at their next Session, representing the distressed Circumstances of many Ministers of this Church, by reason of the Smallness of their Stipends; and praying for such Relief, as they in their Wisdom shall think meet: And the Assembly appointed the Moderator Principal *Campbell*; Masters *Patrick Cuming*, *Alexander M'Lagan*, *William Steel*, at *Dalserf*; *William Steel*, at *Sorn*; *Robert Wallace* and *James Lindsay*, Ministers; the Marquis of *Lothian*, the Lord President, Lord Advocate, Lord Justice Clerk, Lord *Drumore*, Lord *Shewalton*, Mr. *Robert Dundas*, and Mr. *David Dalrymple*, Ruling Elders; as a Committee to prepare a Plan of the Method in which this Affair is to be conducted, and report to the Assembly, on *Thursday* next; and appointed them to meet for that Purpose To-morrow, at Five o'Clock of the Evening, in the Laigh Council-house.

At *Edinburgh*, *Thursday* the Seventeenth Day of *May* One thousand Seven hundred and Fifty Years: The Committee appointed on *Monday* last to prepare a Plan of the Method in which the Application to Parliament, then resolved upon, should be conducted, brought in their Report; which was read; and is as follows; *viz.* The Committee are of Opinion, That in raising of Summonses for Modification, Locality, or Augmentation of Stipends, instead of the usual Method of Summoning by a Messenger, it shall be sufficient, that a general Citation be made by every Parish-Clerk from the Desk, upon a Lord's-day, immediately after Divine Service, in the Forenoon: And that Letters be wrote by the Moderator of the Presbytery to the absent Heretors; except such as are forth of the Kingdom, who are to be summoned by a Messenger at the Mercat-Cross of *Edinburgh*, Pier and Shore of *Leith*: That it shall be in the Power of the Moderator, with Consent of the Presbytery, to pursue for Modification, Locality, or Augmentation, whether there be a Minister settled in the Parish, or the Parish be vacant: That Ministers Stipends, if not paid within the Year, shall bear Interest from the First Half-year after they become due: That Power be given to the Commission of Teinds, to suppress Parishes which they find not proper to be continued separate Parishes, and to annex them to One or more of the adjacent Parishes: That the Commission have likewise a Power to alter the Divisions of Parishes, on a View to divide them as they see Cause.

George Wisbart.

Cause. The Question being put, Approve of what is above proposed, or Not? it carried by a Majority, Approve: Whereupon Mr. *William Steel* at *Dalserf* craved it might be marked, that he did not Approve. This Committee, by a Majority of Votes, further overture to the General Assembly, That in the Application to Parliament there be no Proposals made as to any Alteration of the *Minimum* of Stipend.

The Assembly then proceeded to consider the several Particulars of the above Report: And it being agreed, without a Vote, to approve of all of them, except the last Article; *viz.* That in the Application to Parliament there should be no Proposals made as to any Alteration of the *Minimum* of Stipend; it was proposed, That the same should be left out; and that in place of it there should be the following Clause; *viz.* Most humbly to pray for Relief in the Premises, and such further Relief as to his Majesty, and the Two Houses of Parliament, shall, in their great Wisdom, seem meet: After reasoning, the Question was put, Approve of the last Article in the Committee's Report, or Not? It being understood, that if it carried, Not, the Clause above-mentioned should be insert in place of the Article not approved of; and, the Rolls being called and Votes marked, it carried by a great Majority, Not; and accordingly the Assembly's Resolution with a Preamble, which was proposed, and agreed upon, is as follows;

The General Assembly, considering the distressed Circumstances of many Ministers of this Church, arising from the Smallness of their Stipends, the Expence of Processes for Augmentations, and the dilatory Payment of Stipends, do resolve on an humble Applications to be made to the King and Parliament, for the following Purposes: That in raising of Summonses for Modification, Locality, or Augmentation of Stipends, instead of the usual Method of Summoning by a Messenger, it shall be sufficient, that a general Citation be made by every Parish-Clerk from his Desk, upon a Lord's-day, immediately after Divine Service, in the Forenoon: And that Letters be wrote by the Moderator of the Presbytery to the absent Heretors; except such as are forth of the Kingdom, who are to be summoned by a Messenger at the Mercat-Cross of *Edinburgh*, Pier and Shore of *Leith*: That it shall be in the Power of the Moderator, with Consent of the Presbytery, to pursue for Modification, Locality, or Augmentation, whether there be a Minister settled in the Parish, or the Parish be vacant: That Ministers Stipends, if not paid within the Year, shall bear Interest from the First Half Year after they become

George Wisbart.

become due: That Power be given to the Commission of Teinds, to suppress Parishes which they find not proper to be continued separate Parishes, and to annex them to One or more of the adjacent Parishes: That the Commission have likewise a Power to alter the Divisions of Parishes, on a View to divide them as they see Cause.

The General Assembly instructs those to be commissioned by them, most humbly to pray for Relief in the Premises, and for such further Relief as to his Majesty, and the Two Houses of Parliament, shall, in their great Wisdom, seem meet. And it was declared, by the Moderator, from the Chair, to be the Mind of the Assembly, That by this last Clause it was understood that the Commissioners to Parliament might apply for an Increase of the *Minimum*. From the foresaid Resolution or Determination of the Assembly, rejecting the last Article of the Committee's Report, and admitting of the above-mentioned Clause in place thereof, the Right Honourable the Lord *Napier*, for himself, and in Name of all who should adhere to him, entered his Dissent, craving he might be allowed to give in the Reasons thereof in due time, and thereupon took Instrument: To which Dissent the following Members adhered, and also took Instrument; *viz.* The Right Honourable the Lord Justice Clerk, the Lord Advocate, the Lord President, Lord *Shewalton*, Mr. *James Erskine*, Mr. *George Sinclair* of *Uibster*, Mr. *Gilbert Elliot*, Mr. *James Ker* of *Morison*, Mr. *John Stewart*, Mr. *William Kilpatrick*, Mr. *James Dundas*, Mr. *Alexander Hamilton* of *Pencaitland*, Sir *George Preston* of *Valleyfield*, Mr. *Archibald Campbel* of *Knockbowie*, Mr. *James Carnegie* of *Finhaven*, and Mr. *William Binning*.

The Assembly then resolved, without a Vote, to send Three Ministers, and One Elder, as their Commissioners, to apply, in their Name, to the King and Parliament for the Purposes above-mentioned; *viz.* The Reverend Mr. *Robert Patoun*, Moderator of this Assembly, Mr. *Patrick Cuming*, Professor of Church-History, and one of the Ministers of *Edinburgh*, Mr. *William Steel*, Minister at *Sorn*, Mr. *David Dalrymple*, Advocate and Procurator for the Church: And they further recommended to Mr. *William Steel*, Minister at *Dalserf*, to go along with the said Commissioners, and give them his Assistance.

At *Edinburgh*, Friday the Eighteenth Day of May One thousand Seven hundred and Fifty Years: Upon reading the Minutes of Yesterday, *George Peter* of *Chappel* craved it might be marked,

Z

George Wisbart.

That

That he now adheres to the Dissent then entered by the Lord Napier, and others, against the Resolution of the Assembly.

The General Assembly, judging it proper, That a Committee be appointed to correspond with the Commissioners named Yesterday to go to London, and to give them Advice and Direction upon any Events that may happen, did nominate for that Purpose, Professor Gowdie, Masters Alexander M'Lagan at Little Dunkeld, Andrew Dickson at Aberlady, Robert Baird at Dunlop, John Allan at Row, Professor Pollock, Theodore Gordon at Kennetmont, Alexander Geddes at Birsay, William Craig at Glasgow, Robert Thomson at Killean, Robert Monteith at Long Formacus, Duncan Messarlane at Drymen, James Buchan at Walls, John Squyre at Forreß, William Somerville at Hawick, James Allan at Eyemouth, James Nasmyth at Dalmenie, Peter Grant at Urray, Professor Shaw, Robert Dalgleish at Linlithgow, William Thorn at Govan, Colin Campbel at Eggleßborn, John Pinkerton at Dalziel, Thomas Mutter at Lesswalt, Nathanael M'Kie at Cross-michael, James Lorimer at Mouswald, Alexander M'Kay at Du-noon, Henry Spence at Weems, Ministers; Lord Drumore, Lord Provost of Edinburgh, the Master of Ross, Solicitor Haldane, Mr. Joseph Williamson, Mr. Robert Dalrymple, Dean of Guild Montgomery, William Kier, Mr. White of Stockbriggs, Commissioner Campbel, Mr. Andrew Pringle, Mr. Campbel of Locklands, Mr. Melvill of Kirkmichael, Mr. Alexander M'Millan, and Mr. Archibald Campbel, Ruling Elders; Five whereof to be a Quorum: And appointed those of the said Committee, who reside in or near the City of Edinburgh, to correspond with those at a Distance, that they may thereby be better enabled to give Advice to the said Commissioners; and the Assembly appoint these Commissioners to direct their Letters of Correspondence to Professor Gowdie, who is hereby appointed to call a Meeting of the said Committee as often as Occasion shall require.

At Edinburgh, Monday the Twenty-first Day of May One thousand Seven hundred and Fifty Years: The Commissioners named by this Assembly on Thursday last, to make Application to the King and Parliament, in consequence of the Instructions then given them, are hereby appointed to have their necessary Charges and Depursements defrayed out of the publick Funds of the Church, as is usual in the like Cases: And are further authorized to call for all authentick Papers and Reports, upon the Subject of the Augmentation, which have been laid before the Committee of the last Assembly, or which may after this be transmitted

George Wisbart.

transmitted into the Clerk's Hands: And the Assembly appoints the Committee formerly named by them for corresponding with the Commissioners, to revise such Reports from Ministers relating to their Stipends and Parishes, as have come up since the preparing of the Abstract produced by the Committee of the last Assembly, and to see the same insert and justly stated in the Scheme-Book; and Mr. Matthew Stewart, Professor of Mathematicks in the University of Edinburgh, is added to the said Committee of Correspondents. The Assembly further appoints the several Presbyteries, to whom the Brethren who are appointed Commissioners do belong, to supply their Charges during their Absence: And all Presbyteries are ordered to address Noblemen and Gentlemen within their Bounds in the most respectful manner, for their Countenance and Concurrence in promoting the Success of this Application.

Eodem Die post Meridiem. There being presented to the Assembly a Paper, intituled, *Reasons of Dissent, entered by Lord Napier, and adhered to by several others, against the Resolution of the Assembly, appointing an Application to be made to Parliament concerning the Scheme for augmenting the Stipends of the Ministers of the Church of Scotland*; Mr. Robert Dundas and Commissary Lessly craved it might be marked, That they joined the said Dissent: And thereupon they took Instruments. The said Reasons of Dissent being read, the Assembly ordered the same to lie *in retentis*; and nominated the Moderator Professor Cuming, Masters Alexander M'Lagan, William Steel at Sorn, Professor Shaw, Professor Pollock, Robert Baird, John Allan, Ministers; Mr. Andrew Pringle, Mr. Joseph Williamson, Mr. Campbel of Lockland, Lord Drumore, and the Procurator, Ruling Elders, as a Committee to draw Answers to the said Reasons of Dissent; which are also appointed to be kept *in retentis*.

Extracted upon This and the Twenty-nine preceding Pages, by

George Wisbart, Cl. Eccl. Scot.

At Edinburgh, the Eleventh Day of December One thousand Seven hundred and Fifty Years, the above Extract, consisting of This and the Twenty-nine preceding Pages, was collated with the principal Records, by

Dav. Dalrymple.

N^o III.

LIST of 75 Stipends of Ministers in Scotland, being all that are stated in the Scheme-Book made out by the Committee of the General Assembly, as below 44 l. 8 s. 10 d. Sterling:— And Notes of Facts relative to them, as appearing from the Ministers own Accounts, or from Record.

- No.
1. **SPEYMOUTH** — Stated 37 l. 5 s. 10 d. — is truly 73 l. 4 s. 8 d. according to the Minister's own Account, and the Decree on Record, Anno 1730. to which he refers.
2. **Carmyly** — Stated 36 l. 6 s. 7 d. — is truly 54 l. 2 s. 8 d. according to the Minister's own Account, and as settled at the full Tythe of the Parish by Decree in Anno 1715.
3. **Clachandyfert** — Stated 41 l. 3 s. 4 d. is truly 50 l. 1 s. 1 d. according to the Minister's own Account, and as settled by Decree, Anno 1735.
4. **Culjalmund** — Stated 30 l. 11 s. 1 d. is truly 47 l. 4 s. 6 d. according to the Minister's own Account, and as settled by Decree, Anno 1742.
5. **Crunond** — Stated 43 l. 10 s. 6 d. is truly 46 l. 10 s. 6 d. for Stipend — according to the Minister's own Account: And he says, it is generally reckoned to be so; tho' sometimes less.
6. **Dalziell** — Stated 43 l. 2 s. 8 d. is truly 45 l. 2 s. 8 d. for Stipend, and Elements to the Communion, according to the Minister's Account, and as settled at full Tythe of the Parish, by Decree, in Anno 1732.
7. **Tallinesle** — Stated 40 l. 1 s. 9 d. is truly 44 l. 8 s. 10 d. at least, according to the Minister's own Account; and he has the full Tythe of the Parish, by his Decree in Anno 1729.
8. **Muckhart** — Stated 42 l. 8 s. 10 d. is truly 44 l. 8 s. 10 d. for Stipend and Elements, by the Minister's own Account, and as settled by Decree, in Anno 1726. founded upon an Agreement between the Heretors, the Presbytery, and the Minister.
9. **Metblich** — Stated 43 l. 19 s. 6 d. is truly 44 l. 10 s. 3 d. according to the Minister's own Account, and as settled by Decrees in Anno 1648. and 1673. And Minister says, That he knows of no Fund in his Parish for Augmentation.

10. Kil-

No.

10. **Kilbrenan and Dalavaich** — Stated 44 l. 6 s. 1 d. truly 45 l. 1 s. 1 d. according to the Minister's own Account — Two Parishes united.

11. **Balwibidder** — Stated 42 l. 13 s. 4 d. is truly 50 l. according to the Minister's own Account of the Settlement of it by Decree, in Anno 1668. tho' he says, That some of the Heretors could never be brought to pay conform to it.

12. **Edderton** — Stated 43 l. 15 s. is truly 47 l. 4 s. 6 d. according to Record of the Decree, in Anno 1725. and appears thereby to be the full Tythe of the Parish.

13. **Kildonan** — Stated 41 l. 1 s. 3 d. is truly 44 l. 8 s. 10 d. as settled by Decree, in Anno 1728. at the full Tythe of the Parish.

14. **Firth and Stennis** — Stated 43 l. 8 s. 11 d.; but according to Decree, in Anno 1726. and Estimation therein put upon the small Tythes, Stipend is 44 l. 17 s. 10 d. — Two Parishes united, and lying in *Orkney*.

15. **Coll.** — 27 l. 15 s. 6 d. — The Incumbent is only an Assistant to the Minister of *Terree*, who has 50 l. Stipend, over and above what he gives his Assistant: And Minister says, There is no Tythe unexhausted by his Stipend, except a small Matter which the Synod of *Argyle* gets.

16. **Walls, Sandness, &c. in Zetland** — Stated 38 l. 17 s. 9 d. — but Stipend consisting of Tythes drawn by the Minister: He owns, That for Seven Years past they yielded him 44 l. 8 s. 10 d. per Ann. tho', he says, by reason of Charges in collecting bad Debts, Losses by Privateers, and Shipwrecks in sending them abroad, &c. he computes the annual Value at no more than 38 l. 17 s. 9 d. effective Money.

17. **Lessudden alias St. Boswells** — Stated 43 l. 19 s. 10 d. — If Grain was turned into Money, at same Rates as in other neighbouring Parishes, it is 45 l. 6 s. But Minister says, His Grain is remarkably bad, and of low Value.

18. **Lesly** — Stated 42 l. 5 s.; but is 44 l. 8 s. 10 d. according to the Minister's own Estimation; and, as he says, it was settled by Decree, in Anno 1686. at full Tythe of the Parish.

19. **Ruthven** — 24 l. 10 s. — Composed of Grain computed at an easy Rate; and the Amount, as stated by the Minister himself, of the small Tythes, which he draws in Kind — And is the full Tythe of the Parish (which belong'd to one Man), according to the Minister's own Account of the Settlement thereof, by Decree, in Anno 1634. — He has a Glebe which would lett at 5 l.

A a

20. In-

- No.
 20. *Inverury*—38 l. 6 s. 8 d. as settled by Decree, in *Anno* 1635. according to the Minister's Account.
 21. *Boyndie*—39 l. 7 s. 6 d.— This is beside the small Tythes, to which the Minister is intitled by his Decree in *Anno* 1635. and which he owns he draws; but does not tell their Value.
 22. *Roberton*—41 l. 13 s. 6 d.— Settled by Decree, in *Anno* 1643. at full Tythe of the Parish.
 23. *Clatt* — 42 l. 7 s. 2 d. Settled by Agreement in *Anno* 1650. upon which Hornings have proceeded—It is a Parish belonging to Three Heretors.
 24. *Oyne*—44 l. 8 s. 7 d. — A Parish belonging to Four Heretors—Settled by Decree, in *Anno* 1650.
 25. *Leockill*—33 l. 7 s. 3 d.—This as settled by Decree, in *Anno* 1666. But Minister says, He has 2 l. 15 s. 7 d. more from the Tenants of a Part of a neighbouring Parish, now under his Charge. It is a Parish belonging to Two Heretors.
 26. *Kinkell*—44 l. 5 s. 10 d.—A Parish belonging to Four Heretors. Settled by Decree, in *Anno* 1676. And the Tythes belong to the Principal of *St. Leonard's* College in the Univerfity of *St. Andrew's*.
 27. *Cushny*—34 l.—Settled by Decree, in *Anno* 1678.— It is a Parish belonging to Three Heretors.
 28. *Arrochar* and *Tarbatt* — 30 l. 11 s. 1 d.— Settled by Decree, in *Anno* 1689.— Two Parishes united—The Property of Two Heretors.
 29. *Walls* and *Fiota*—Stated 37 l. 18 s. 10 d.; but truly 44 l. 6 s. 8 d. by the Minister's own Account; and as set forth by him to be settled by Decree, in *Anno* 1702.—It is a Parish confifting of Two of the *Orkney-Islands*.
 30. *Cultr*—40 l. 16 s. 8 d. Settled by Decree, in *Anno* 1710.—The Tythes belong to the Provost of the old College of *St. Andrew's*, as Parfon (the Minister being only as Vicar), and a very small Provision left to him.
 31. *Auchtertool*—41 l. 18 s. 4 d. Settled by Decree, in *Anno* 1710. at full Tythe of the Parish, which belongs to Two Heretors.
 32. *Cranflaws*—36 l. 19 s. 5 d. Settled by Decree, in *Anno* 1710 at full Tythe of the Parish, belonging to Four Heretors.
 33. *Birnay*—36 l. 15 s. 3 d.— Settled by Decree, in *Anno* 1712. and is full Tythe of the Parish, and 2 l. 14 s. 8 d. of Bishop Rents beside.
 34. *Dor-*

- No.
 34. *Dornock*—42 l. 4 s. 5 d.— Settled by Decree, in *Anno* 1712.: And Minister says, That there is no Fund for Augmentation in the Parish.
 35. *Calbrack*—33 l. 6 s. 8 d.— Settled by Agreement in *Anno* 1713. between the Minister and the Heretors; who are but Three in Number.
 36. *Longbride*—41 l. 11 s. 2 d.— Settled by Decree, in *Anno* 1717. at full Tythe of the Parish; which is the Property of Three Heretors.
 37. *Guthrie*—34 l. 16 s. 4 d.— Settled by Decree, in *Anno* 1722. at 37 l. 4 s. 11 d. for Stipend and Elements.— It is a Parish belonging to Three Heretors.
 38. *Forbes* and *Kearn*—40 l. 1 s.— Settled by Decree, in *Anno* 1722. at full Tythe of Two Parishes then united.
 39. *Uig* — 42 l. 8 s. 10 d. } These Three and a Fourth Parish,
 40. *Locks* -- 43 l. 6 s. 3 d. } with a Stipend of 53 l. were erected
 41. *Barvas* - 43 l. 6 s. 3 d. } out of Two old Parishes in the Isle
 of *Lewis* by Decree, in *Anno* 1722.
 and the full Tythe given to make
 up the Four Stipends.
 42. *Strath*—43 l. 17 l. 9 d.— This and Five other Parishes (with Stipends above 44 l. 8 s. 10 d.) were erected out of Two old Parishes in the Island of *Skye* by Decree in *Anno* 1726.: And Minister says, That it appears, that the Land-Rents would admit of no more at the time.
 43. *Kildrimmie*—38 l. 15 s.— Settled by Decree, in *Anno* 1729. at full Tythe of the Parish; which is the Property of Five Heretors.
 44. *St. Andrew's* and *Diernefs*—38 l. 17 s. 9 d.—This is only the Money-Stipend; but the Minister has also Grain to Value of 4 l. 3 s. 4 d. according to his own Account, and his Settlement by Decree, in *Anno* 1729.— And he says, He has 5 l. 12 s. 10 d. of Glebes.— Two Parishes united, and lie in *Orkney*.
 45. *Kilminver* and *Kilmilford*—42 l. 2 s. 8 d.— Two Parishes united.— Old Stipend in a Decree of the Sheriff of *Argyle*, *Anno* 1722. increased by a Bond from the principal Heretor in *Anno* 1729.
 46. *Collace*—37 l. 18 s. 4 d.— Settled by Decree, in *Anno* 1731. at full Tythe of the Parish, which is the Property of Two Heretors.
 47. *Auchendore*—39 l. 12 s.— Settled by Decree, in *Anno* 1730. and seems to be full Tythe of the Parish; which is the Property of Seven Heretors.
 48. *Gigha*

No.

48. *Gigba and Cara* — Stated 25 l. 2 s. 1 d. ; but is truly 37 l. 5 s. according to the Minister's Account. — It is a new Erection, in Anno 1729. of another Parish, and consists of Two small Islands in *Kintyre*. — The Minister says, He has the whole Tythe; and it is given him by the Decree on Record.

49. *Glendovan* — 27 l. 15 s. 6 d. — The Minister says, That, according to his Information, there are no Tythes in his Parish.

50. *Combray* — 34 l. 17 s. 11 d. — This Parish is an Island in the Firth of *Clyde*. — The Minister says, That the Synod of *Argyle* being the Crown's Grantees of the Tythes, the Incumbent in the Years 1707. and 1708. had Orders upon them from the Lords of Treasury for 12 l. 10 s. of additional Stipend, &c.; but they proved ineffectual, by the Synod's alleging, That there was no Fund for answering them.

51. *Ronsay and Egilsay*, in the *Orkney-Isles* — 33 l. 6 s. 8 d.

52. *Deltings* in *Zetland* — 35 l. 9 s. 1 d.

53. *Sandsting* and *Aithsting*, in *Zetland* — 33 l. 6 s. 8 d.

54. *Orphir*, in the *Orkney-Isles* — 39 l. 15 s. 6 d.

55. *Shappinsay*, one of the *Orkney-Isles* — 38 l. 14 s.

The Stipends of all these Five appear, from the Ministers Accounts of them, to be the Tythes themselves in the Possession of the Ministers, as reckoned by them, or as farmed or lett in Lease: — And — No. 52. says, That, beside the Sum of 33 l. 6 d. 8 d. he has Twenty Threaves of Oats and Barley, of Corn-Tythes; which he does not value, or turn into Money. — No. 52. is Two Parishes united — And No. 55. says expressly, That his Stipend, small as it is, will be very near equal to the Tythes of the Parish.

56. *Sunprim* — 36 l. 8 s. 9 d. — It appears by Proceedings in the Court of Session, as set forth by the Minister, That the Stipend is the full Tythe; and that it is settled by a Decree.

57. *Arderseir* — 36 l. 6 s. 8 d. — The full Tythe, according to the Minister's own Account of the Rent of the Parish.

58. *Laggan* — 36 l. 2 s. 3 d. — The Minister says, That there is no Fund for any Augmentation in his Parish.

59. *St. Leonard's* — 30 l. 15 s. 6 d. — The Tythes are Part of the Revenue of the University of *St. Andrew's*, and the Principal of *St. Leonard's College* there is Minister *ex Officio*.

60. *Dyce* — 39 l. 8 s. 10 d. — The Tythes belong to the University of *St. Andrew's*.

61. *Ordiwhill* — 27 l. 15 s. 6 d. — The Property of One Heretor.

62. *Glen-*

No.

62. *Glenbuckett* — 32 l. 6 s. 8 d. — The Property of One Heretor.

63. *Rotbes* — 37 l. 4 s. 6 d. — The Property of One Heretor.

64. *Nigg* in *Aberdeen* — 37 l. 10 s. 10 d. — The Property of one Heretor. Stipend is 6 s. 8 d. more by the Minister's Account.

65. *Keith-hall* — 38 l. 17 s. 9 d. — The Property of Two Heretors.

66. *Premmay* — 36 l. 16 s. 6 d. — The Property of Four Heretors. — Stipend seems 1 l. 2 s. 2 d. more by the Minister's Account.

67. *Evie and Rendall* — 38 l. 17 s. 9 d. — Two Parishes united; lying in *Orkney*, and Property of many Heretors. — Have Glebes valued at 8 l. 18 s. 4 d.

68. *Westray*, &c. — 38 l. 17 s. 9 d. — Parish consists of Two of the *Orkney-Isles*. — Has Glebes valued at 5 l. 14 s. 6 d.

69. *Eckford* — 43 l. 6 s. 8 d. — Beside this, the Minister says, He has some small Tythes, of which he does not specify the Value. — The Parish is the Property of Five Heretors.

70. *New-Cumnock* — 41 l. 13 s. 4 d. — Tythes all in the Hand of One Person. — Parish lies in Presbytery of *Air*; which contains Twenty-eight Parishes, and all of them, but this, are well provided, from 50 l. to 90 l. Stipends.

71. *St. Madoes* — 41 l. 12 s. — The Property of Two Heretors. — Has a Glebe of Eighteen or Twenty Acres; which has been lett for Grain to Value of 15 l. 9 s. 4 d. Sterling, *per Annum*.

72. *Benwie* — 43 l. 14 s. — The Property of One Heretor.

73. *Kinguissey* — 44 l. 4 s. 6 d. — The Property of Ten or Eleven Heretors.

74. *Holme* — Stated 37 l. 4 s. 5 d. — is truly 42 l. 13 s. 4 d. according to the Account of the Synod. — It is a Parish in *Orkney*, belonging to sundry Heretors; but Tythes all in the Hands of a Lessee from the Crown.

75. *Cross, Burness*, &c. — 40 l. 5 l. 6 d. — Two Parishes united in the *Orkney-Isles* — belonging to sundry Heretors, and having Glebes valued 5 l. 17 s. 2 d. as they are commonly lett.

B b

Abstract

Abstract of the List of 75 Stipends of Ministers in Scotland, delivered in to the Committee by Mr. Chalmers; which 75 Stipends are all the Ministers Stipends which the Committee of the General Assembly, in the Scheme-Book they prepared, state to be under the annual Value of 44l. 8s. 10d. Sterling.

- 18 THE first Eighteen of these 75 Stipends, from N^o 1. to N^o 18. inclusive, are, by the Ministers Returns of their own shewing, confessed to be above the annual Value of 44l. 8s. 10d.; and 10 of these 18 Stipends have been settled since the Union; and the Stipends of 3 others of them appear to have been fixed between 1633. and the Union; and the Ministers intitled to most of these 18 Stipends confess to have the full Tythes of their respective Parishes.
- 11 The Eleven next of these 75 Stipends, from N^o 19. to 29. appear, from the Ministers Returns, to have been already modified and settled subsequent to the Year 1633. and before the Union, by the Commissioners of Teinds.
- 19 The Nineteen next of these 75 Stipends, from N^o 30. to N^o 48. inclusive, appear, from the Returns of their respective Ministers, to have been settled and fixed by Decrees since the Union, except N^o 35. which, it is admitted, was settled by Agreement, Anno 1713. between the Minister and the Heretors, who are only Three.
- 10 The Ten next of these 75 Stipends, from N^o 49. to N^o 58. inclusive, appear, from the Minister's Returns, to be the Amount of the full Tythes of their respective Parishes; and therefore are not capable, by Law, to be augmented.
- 2 As to the Two next Stipends, N^o 59. and N^o 60. it appears, the Tythes of those Parishes belong to the University of
- 60 St. Andrew's; and the present Stipend of N^o 59. is
- 15 30l. 15s. 6d. and belongs to the Principal of the Uni-
- versity, who has 130l. a Year besides; and, of N^o 60.
- 75 39l. 8s. 10d.

So that it hereby appears, that Sixty of the said 75 Stipends cannot be affected by the present Question; and, with regard to the remaining 15 Stipends, N^o 61. to 75. which are all the Stipends of the Ministers of the Church of Scotland which appear to be under the annual Value of 44l. 8s. 10d. commonly called the Legal, which remain to be modified, or settled, under the Act of 1633. the Landed Interest are prepared to shew, that 2 of these 15; viz.
2. Eckford,

- 2 Eckford, N^o 69. and North Ronaldsay, otherwise Cross Burness, &c. N^o 75. instead of being prevented, as has been suggested, by the Expence; are now actually suing before the Court of Session, as Commissioners of Teinds, for Modifications of their Stipends.
- 3 It appears, by the Ministers Returns, that the Stipends of 3 others of the said 15 Stipends; viz. Glenbuckett, N^o 62. the Stipends Nigg, N^o 64. and Evie and Randall, N^o 67. have been already settled by Decrees of the Commission of Teinds; and it appears, the Stipend and Glebe of Evie and Randall is 41l. 16s. 1d.
- 1 It appears, by the Minister's Returns, that there are no Funds — for augmenting Rothies, N^o 63.
- 6

As to the 9 remaining Stipends contained in Mr. Chalmers's said List; the Circumstances of those Stipends appear thereby, and by the Ministers Returns, to be as follows:

- 1 St. Madoes, N^o 71. The Stipend is 41l. 12s. the Glebe 15l. 9s. 4d. Total 56l. 1s. 4d. a Year; which is sufficient to shew, it is above the Legal.
- 2 Benvie, N^o 72. The Stipend is 43l. 14s. which is only Fourteen Shillings and Ten-pence under the Legal; and it belongs to One Heretor.
- 3 Kingisfey, N^o 73. The Stipend is 44l. 4s. 6d. which is only 4s. and 4d. under the Legal; and the Minister admits, the rest of the Tythes were sold, by the Incumbent, 60 Years ago, to the Duke of Gordon.
- 4 Holme, N^o 74. The Stipend is 42l. 13s. 4d.; and it appears, by the Ministers Returns, that the whole Parish is Bishops Land, and held, by a Lessee, from the Crown.
- 5 Westray, N^o 68. The Stipend is 38l. 17s. 9d.
The Glebe 5l. 14s. 6d.

44 12 3

- The Minister says, he is not sure whether there is more than one Heretor.
- 6 Keithball, N^o 65. The Stipend is 38l. 17s. 9d. which appears to be the full Tythes of the Parish, the Property of only Two Heretors.
- 7 Premnay, N^o 66. The Stipend is 37l. 18s. 8d. and the Property of Four Heretors.

8 *Orduobill*, No 61. The Stipend is only 27*l.* 15*s.* 6*d.* and is the Property of One Heretor.

9 *New Cumnock*. The Stipend is 41*l.* 13*s.* 4*d.* The Teinds are in One Hand.

The Result of all which is, that there is not One of these 9 Stipends, last-mentioned, which deserve the Interposition of the Legislature in their Favour.

Notes of the Differences between the real Amount or Value of several Stipends of Ministers in Scotland, according to the Documents which the Committee of the General Assembly had for making up their Report, and the Amounts stated for them in the Scheme-Book; upon which, immediately, they founded their said Report.

N. B. The Left Hand Column shews the real Amount, and the Right Hand one the Amount stated.

<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>
87	8	11	1. <i>Inverask.</i> BY Decree set forth by the Minister; but because Use of Payment falls short in 2 Bolls Victual, it is stated	86	8	1
84	15	6	2. <i>South Leith.</i> First Minister. Paid him; but because he has no House, that is reckoned at 9 <i>l.</i> and Stipend stated	75	15	6
88	6	8	3. <i>Haddington.</i> One Minister. When his Wheat is turned into Money, at 12 <i>s.</i> 6 <i>d.</i> per Boll (its known Value); but by stating only 10 <i>s.</i> 5 <i>d.</i> per Boll, it is made	83	6	8
65	4	8	4. <i>Wilton.</i> According to the Minister's Report; but stated, by Mis-calculation on very same <i>Data</i> , at	60	5	4
72	18	4	5. <i>Tynrom.</i> According to just Calculation upon the <i>Data</i> ; but by Error, on the Amount of the Conversion of Victual, stated	63	0	0
398	14	1	Sums carried to next Page	368	15	7

6. *Kirk-*

<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>
398	14	1	Sums brought over from preceding Page.	368	15	7
66	13	4	6. <i>Kirkmahoe.</i> According to Decree, in Favour of the Minister; but, upon his Assertion that no more has been paid for 22 Years past, it is stated	55	11	2
72	16	1	7. <i>Anwoth.</i> According to Decree, in Favour of the Minister; but, upon his Assertion that Use of Payment is less, and that he's obliged to pay 4 <i>l.</i> 3 <i>s.</i> 4 <i>d.</i> of Factor's Fee, it is stated	56	18	10
67	14	6	8. <i>Girton.</i> According to just Calculation upon the <i>Data</i> ; but, by Error upon the Amount of the Conversion of Victual, &c. it is stated	60	3	1
68	6	8	9. <i>Borg, &c.</i> According to Decree, in the Minister's Favours; but, on his Assertion that he is not paid accordingly, &c. it is stated at	57	15	4
64	5	11	10. <i>Parton.</i> According to Decree, in the Minister's Favour; but, upon like Assertion, &c. as above, it is stated	55	15	7
52	0	0	11. <i>Glasserton.</i> According to the Minister's Account; 3 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> sunk, without any Reason assigned; and whole stated	48	13	4
66	13	4	12. <i>Monigaff.</i> According to Decree, in Favour of the Minister, adding 11 <i>l.</i> 2 <i>s.</i> 3 <i>d.</i> to old Stipend; but because he says the Heretors have refused to pay the Addition, Stipend is stated at	55	11	2
66	13	4	13. <i>Ballantrae.</i> According to the Minister's own Account; but, without any Reason assigned, it is stated at	65	1	8
923	17	3	Sums carried to next Page.	824	5	9

C c

14. *Stran-*

<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>
923	17	3	Sums brought over from preceding Page.	824	5	9
			14. <i>Stranrawer.</i>			
62	10	0	According to the Minister's own Account; but, upon his Assertion that 6 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i> of it is not paid, and that he has no Manse, or Glebe, it is stated at	52	3	4
			15. <i>Kirkmichaell, in Presb. of Air.</i>			
74	0	0	According to the Minister's own Account; but, by omitting his Victual altogether, and deducting 2 <i>l.</i> 15 <i>s.</i> 6 <i>d.</i> for Communion-Elements from the Money, it is stated	46	4	6
			16. <i>Mauchlin.</i>			
72	4	6	By the Minister's own Account of his Decree; but because he says that 5 <i>l.</i> 11 <i>s.</i> 2 <i>d.</i> Carriage-money, is worth nothing to him, it is stated	66	13	4
			17. <i>Galston.</i>			
79	1	6	By the Minister's own Account of his Decree; but, by omitting Value descended upon, of his Vicarage altogether, and giving 2 <i>l.</i> 15 <i>s.</i> 6 <i>d.</i> for Elements, it is stated	68	6	8
			18. <i>Strathaven.</i>			
94	8	6	For the Minister and a Catechist, or Assistant, according to the Minister's own Account; but, by leaving out altogether the Provision for Catechist, it is stated	66	13	0
			19. <i>Bonbill.</i>			
66	5	3	By Minister's own Account of the Matter, and his Decree; but, by sinking so much of the Money, without Reason assigned, it is stated	63	17	6
			20. <i>Killearn.</i>			
75	0	0	When Victual is turned into Money, at 10 <i>s.</i> 5 <i>d.</i> per Boll, the known Rate, and lowest claimed, for the other Ministers there; but, by turning it into Money, at 6 <i>s.</i> 11 <i>d.</i> $\frac{1}{2}$ per Boll, it is stated	63	17	9
1447	7	0	Sums carried to next Page.	1252	1	10

<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>
1447	7	0	Sums brought over from preceding Page.	1252	1	10
			21. <i>Dunkeld.</i>			
79	10	7	According to the Minister's own Account; but, by leaving out the Value of the small Tythes and Feuduties, without Reason assigned, it is stated	66	19	9
			22. <i>Kinglassie.</i>			
65	17	4	By the Minister's own Account; but, by omitting so much of Money, without Reason assigned, it is stated	64	11	10
			23. <i>Cameron.</i>			
68	15	10	By just Calculation, according to the Minister's Account; but, by Miscallull upon the same <i>Data</i> , stated at	67	15	10
			24. <i>Newburn.</i>			
61	3	4	By just Calculation, according to the Minister's Decree, and known Rates stated by others; but, by some Miscallull, it is stated at	60	2	6
			25. <i>Inchstuir.</i>			
76	6	0	According to Minister's Account, and Decree; but, by a Complication of Miscallulls, &c. stated at	74	9	7
			26. <i>Longforgand.</i>			
79	15	3	By just Calculation, according to the Minister's own Account, and Rates; but, by miscalculating on same <i>Data</i> , it is stated at	73	14	6
			27. <i>Barry.</i>			
61	13	0	By just Calculation, according to the Minister's Account, and Decree; but, by miscalculating on same <i>Data</i> , it is stated at	57	9	8
			28. <i>Montrose.</i> First Minister.			
75	9	2	By just Calculation according to the Minister's Account, and the known Rate of turning Victual into Money; but, by Miscalculation on same <i>Data</i> , and setting aside 5 <i>l.</i> 4 <i>s.</i> 8 <i>d.</i> for Elements, it is stated	60	19	10
2015	17	6	Sums carried to next Page.	1778	5	4

<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>
2015	17	6	Sums brought over from preceding Page. 1778	5	4	
			29. <i>Brechin</i> . First Minister.			
101	7	10	By just Calculation, and according to the Minister's Account; but, by Miscalculation, contrary thereunto, it is stated at	90	19	6
			30. <i>Garvock</i> .			
45	17	10	By reckoning the small Tythes at highest Value put on them by the Minister's Account; but, by abating a Tenth Part thereof, because he says the Value may, some Years, be much less, it is stated at	44	15	7
			31. Chapel of <i>Garioch</i> .			
59	15	8	According to the Minister's Account, reckoning his small Tythes at 22 <i>l.</i> 4 <i>s.</i> 6 <i>d.</i> because he says, that, if duly paid, they would amount to that Sum; and that they had been lett, about Twelve Years ago, for 20 <i>l.</i> 15 <i>s.</i> 6 <i>d.</i> ; but, by reckoning them only 8 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> because, he says, he is informed they were so valued above an Hundred Years ago, it is stated at	45	18	0
			32. <i>Rayne</i> .			
47	5	8	According to the Minister's Account by just Calculation; but, by Miscalculation in turning the Victual into Money, it is stated	44	10	1
			33. <i>Longside</i> .			
54	8	10	According to the Minister's Account; but, by under-summing the Particulars 20 <i>s.</i> and setting aside 3 <i>l.</i> for Elements, it is stated at	50	8	10
			34. <i>Cullen</i> .			
47	15	6	According to the Minister's own Account, reckoning his small Tythes at 5 <i>l.</i> 11 <i>s.</i> 1 <i>d.</i> $\frac{1}{3}$; because, he says, they are worth so much; but, by reckoning them only 2 <i>l.</i> 4 <i>s.</i> 5 <i>d.</i> $\frac{2}{3}$, because, he says, he has lett them at that Sum, it is stated at	44	8	10
2272	8	10	Sums carried to next Page.	2099	6	2

<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>
2272	8	10	Sums brought over from preceding Page. 2099	6	2	
			35. <i>Fordice</i> .			
69	10	10	According to the Minister's own Account, including 2 <i>l.</i> 18 <i>s.</i> 4 <i>d.</i> as Net Rent of some mortified Lands; but, by leaving out that, it is stated	66	12	6
			36. <i>Aberlour</i> .			
47	4	6	According to the Minister's own Account; but, without Reason assigned, stated at	44	8	10
			37. <i>Inverness</i> . Third Minister's.			
85	4	4	According to the Minister's own Account, including 11 <i>l.</i> 15 <i>s.</i> 11 <i>d.</i> to which, he says, he is intitled by the Town's Grant of Two Penies on the Pint of Ale; but, by leaving out that, because contested, deducting 2 <i>s.</i> 3 <i>d.</i> of his Stipend, because he says it is not paid; and 5 <i>l.</i> 11 <i>s.</i> 1 <i>d.</i> because he has no Glebe; and 5 <i>l.</i> 11 <i>s.</i> 2 <i>d.</i> for Salary to a Collector, &c. it is stated at	52	18	4
			38. <i>Inverness</i> . First Minister.			
72	4	2	According to the Minister's Account, including 11 <i>l.</i> 15 <i>s.</i> 11 <i>d.</i> out of the Town's Grant aforesaid, and 1 <i>l.</i> 10 <i>s.</i> of small Tythes; but, by omitting these, because he says the Town refuses to pay them, it is stated at	58	18	3
			39. <i>Inverness</i> . Second Minister.			
72	4	2	—Same Way as first	58	18	3
			40. <i>Aberdeen</i> . First Minister.			
85	16	8	According to Minister's own Account; being 83 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> in Money, and 2 <i>l.</i> 10 <i>s.</i> in Coals; but the Coals being left out, it is stated at	83	6	8
			41, 42.—Ditto Second and Third Ministers.			
171	13	4	The same Way, as to each, with the first	166	13	4
2876	6	10	Sums carried to next Page.	2631	2	4
			D'd			N.B.

l. s. d. 2876 6 10 Sums brought over from preceding Page 263 1 2 4

N. B. These Three Ministers, by various Deductions acclaimed, moulder down their Stipends greatly, and say, that, in proportion to a Country Stipend, each of them can be reckoned to have only 49l. 12s. 8d.

43. *Croy.*
63 6 8 According to the Minister's own Account and Rate, for turning his Vic-tual into Money; but, by taking a lower Rate of Conversion, it is stated at 55 11 2

44. *Fearn.*
50 0 0 According to the Minister's Account, reckoning his small Tythes at 5l. 11s. 2d. as valued in his Decreet; but, by reckoning them at 3l. 6s. 8d. as set by a late Incumbent, by reason of bad Payment, it is stated at 47 15 7

45. *Ardnamurchan.*
III 2 3 For the Minister and an Assistant, by Decree; but, by leaving out 27l. 15s. 7d. allotted to the Assistant, and fet-ting aside 5l. for Elements, it is stated at 78 6 8

46. *Lerurck.*
61 2 3 In Stipend and Element-money, accord- ing to the Minister's Account and De- creet; but stated for both 55 8 10

N. B. The Instances under this Head which follow, to No. 72. inclusive, being, in the Scheme-Book, below 44l. 8s. 10d. are also in the List of 75 Parishes so stated, &c. Where- fore, that being referred to, the true and stated Sums only follow.

73 4 8	—	47 <i>Speymouth</i>	—	37 5 10
54 2 8	—	48 <i>Carmylie</i>	—	36 6 7
50 1 1	—	49 <i>Clackandysfert</i>	—	41 3 4
3339 6 5	—	Sums carried to next Page	—	2983 0 4

l. s. d. 3339 6 5 Sums brought over from preceding Page 2983 0 4

47 4 6	—	50 <i>Culsalmond</i>	—	30 11 1
46 10 6	—	51 <i>Crunond</i>	—	43 10 6
45 2 8	—	52 <i>Dalziell</i>	—	43 2 8
44 8 10	—	53 <i>Tullinefle</i>	—	40 1 9
44 8 10	—	54 <i>Muckbart</i>	—	42 8 10
44 10 3	—	55 <i>Methlick</i>	—	43 19 6
45 1 1	—	56 <i>Kilcbrennan & Dalavack</i>	—	44 6 1
50 0 0	—	57 <i>Balwhidder</i>	—	42 13 4
47 4 6	—	58 <i>Edderton</i>	—	43 15 0
44 8 10	—	59 <i>Kildonnan</i>	—	41 1 3
44 17 10	—	60 <i>Firth and Stennis</i>	—	43 8 11
44 8 10	—	61 <i>Walls, Sandness, &c.</i>	—	38 17 9
45 6 0	—	62 <i>Lessudden or St. Boswells</i>	—	43 19 10
44 8 10	—	63 <i>Lesly</i>	—	42 5 0
36 2 10	—	64 <i>Lexhill</i>	—	33 7 3
44 6 8	—	65 <i>Walls and Flotta</i>	—	37 18 10
37 4 11	—	66 <i>Guthrie</i>	—	34 16 4
43 1 1	—	67 <i>St. Andrew's and Diernefs</i>	—	38 17 9
37 5 0	—	68 <i>Gigha and Cara</i>	—	25 2 1
37 17 2	—	69 <i>Nigg in Aberdeen</i>	—	37 10 10
37 18 8	—	70 <i>Premnay</i>	—	36 16 6
42 13 4	—	71 <i>Holm</i>	—	37 4 5
43 1 1	—	72 <i>Cross Burness, &c.</i>	—	40 5 6

4336 18 8 Sums Total, as carried on — 3879 1 4

To Sum Total of Left-hand Column, as carried on; viz. — 4336 18 8

And 100 l. mistaken in Transport, from p. 3d. to p. 4th. — 100 0 0

Add true Sum of said Column, p. — 4436 18 8

Sum Total of Right-hand Column being — 3879 1 4

Difference is the Amount of what is stated on these 72 Stipends, less than what should have been stated, and is — 557 17 4

Sum carried forward — 557 17 4

	l.	s.	d.
Sum brought over from preceding Page.	557	17	4
73 Skirling— Money Stipend, stated less than } per Williamson's Abstract In. ————	0	13	4
74 Cockburnspeth— Rent of a House and Yard, } in Return, omitted ————	0	15	0
75 Eccles— Understated, on Price of Grain, by } Miscalculation ————	0	14	10
76 Dysert— First Minister— Has, beside what is } stated for him, in Scheme-Book, per Decree, on Record, a Chalder Salt yearly, and Two Loads Coals weekly; and the Tythe of Fish (on which no Liquid, at Value, is put), and certain other Duties, in Moneys, to Amount of 4 <i>l.</i> 15 <i>s.</i> 6 <i>d.</i> Scots, if not Sterling. <i>Inde</i> for Scots ————	0	8	0
77 Dysert— Second Minister-- has, beside what } is stated in Scheme-Book, per said Decree, a Load of Coals weekly.			
78 Rosekeen— Money Stipend, stated less than, } per Decree and Abstract ————	1	7	10
Total Differences on the 78, beside the illiquid } Particulars to the Ministers of <i>Dysert</i> ————	561	16	4
79 Kirkwall— Second Minister-- has, by his own } Account, 46 <i>l.</i> 15 <i>s.</i> 6 <i>d.</i> $\frac{2}{3}$; and is stated in Book only at 44 <i>l.</i> 8 <i>s.</i> 10 <i>d.</i> $\frac{2}{3}$ <i>Inde</i> ————	2	6	8
Total Differences, on the 79. <i>ut supra</i> ————	564	3	0

Note. That there are about 50 other Stipends diminished, in the Scheme-Book (from 5*l.* 11*s.* 1*d.* to 2*l.* 4*s.* 6*d.* on each), by allotting so much of it for furnishing Communion-Elements, according to the Fancy of the Committee, who made up the Book.

Note. The Sixteen following Instances, being of those wherein more is stated in the Book than ought to have been, the Left-hand Column shews what is stated, and the Right, the real Amount.

80. *Living-*

	l.	s.	d.
80. <i>Livingston.</i>			
66 13 4— But out of this he pays to the } Minister of <i>Whitburn</i> 100 Marks Scots; and that is ac- cordingly reckoned as Part of his Stipend; so this should only be ————		61	2 3
81. <i>Linlithgow.</i> First Minister.			
100 0 0— But, out of this he gives to the } Second Minister (350 Marks), 19 <i>l.</i> 8 <i>s.</i> 11 <i>d.</i> ; and it is ac- cordingly reckoned as Part of his Stipend— So this should be ————		81	11 1
82. <i>Tweedsmuir.</i>			
62 18 4— But too much by 1 <i>l.</i> 5 <i>s.</i> in Mis- } calculating--So should be only ————		61	13 4
83. <i>Whitson and Hilton.</i>			
81 14 5— But 1 <i>l.</i> 3 <i>s.</i> 4 <i>d.</i> as Price of Grain, } twice stated--So it should be ————		80	11 1
84. <i>Bedrule.</i>			
59 19 8— But 4 <i>l.</i> 8 <i>s.</i> 7 <i>d.</i> Which, Minister } says, comes as small Tythe, in place of so much funk of 55 <i>l.</i> 11 <i>s.</i> 1 <i>d.</i> Stipend is added to it-- So Whole should be only ————		55	11 1
85. <i>Bothwell.</i>			
80 11 1— By adding Sum expressly allotted } for Elements to Stipend; which is only ————		75	0 0
451 16 10 — Sums carried to next Page		415	8 10

E c

86. *Rhind.*

[110]

<i>l. s. d.</i>		<i>l. s. d.</i>
451 16 10	Sums brought from preceding Page—	415 8 10
	<i>86. Rhind.</i>	
53 15 2	—But there is 6 <i>l.</i> more Money than is warranted by the Minister's Account-- So should be —	47 15 2
	<i>87. Dron.</i>	
67 11 4	—But there's 2 <i>l.</i> 4 <i>s.</i> 6 <i>d.</i> more Money than warranted by the Minister's Account--So it should be—	65 6 10
	<i>88. Portmoak.</i>	
57 4 5	—But there's stated 2 Bolls Grain (Value 16 <i>s.</i> 8 <i>d.</i>) more than is warranted by the Ministers Account--So it should be —	56 7 9
	<i>89. Kemnay.</i>	
45 16 8	—But there's an Error in turning the Grain into Money, to the Extent of 6 <i>l.</i> 18 <i>s.</i> 10 <i>d.</i> --- So Stipend should be only—	38 17 10
	<i>90. Grange.</i>	
52 15 6	—But there is 1 <i>l.</i> 1 <i>s.</i> 7 <i>d.</i> more Money stated than is warranted by the Ministers Account-- So Stipend should be only —	51 13 11
	<i>91. Dundurcus.</i>	
60 15 2	—But there is an Error of 11 <i>l.</i> 17 <i>s.</i> 4 <i>d.</i> in turning the Grain into Money--- So it is only —	48 17 10
	<i>92. Rothies.</i>	
37 4 5	—Is 2 <i>l.</i> 15 <i>s.</i> 7 <i>d.</i> more than should be by Minister's Account — So is —	34 8 10
<hr/>		
826 19 6	Sums carried forward.	758 17 0
		93. Con-

[111]

<i>l. s. d.</i>		<i>l. s. d.</i>
826 19 6	6 Sums brought from preceding Page —	758 17 0
	<i>93. Contain.</i>	
55 11 1	—According to Ministers Account, and Decree, on Record, should only be —	50 0 0
	<i>94. Dingwall.</i>	
68 2 6	—Is too much, by Miscalculation, on turning Grain into Money, and other Errors, to Extent of 13 <i>l.</i> 7 <i>s.</i> --- So should only be—	54 15 6
	<i>95. Kincardin, in Presb. of Tayne.</i>	
50 0 0	—Restricted by Decree, on a Review, to —	44 8 10
<hr/>		
1000 13 1	Sums-- With respect to these last Sixteen Parishes —	908 1 4
<hr/>		
	Sum of Left-hand Column being	1000 13 1
	And Sum of Right-hand Column	908 1 4
<hr/>		
	Difference is the Amount of what is stated on these 16 Stipends, more than what should have been stated; and is —	92 11 9

N. B. In the Cafe of *Linton*, in Prebs. of *Peebles*, 5*l.* which is Element-money, is added to, and stated as Part of Stipend.

The

The FEES in the COURT of COMMISSION, &c.

139. SEEING, by the Act of Parliament, 1707. the Lords of Council, and Session, are authorized to judge all Causes, which were formerly referred to the Commissions of Parliament, for Plantation of Kirks, and Valuation of Tythes, the said Lords, pursuant to the Powers given to them, towards the rightful ordering of Administration of Justice, have regulated the Fees and Dues payable to the Clerks or Macers in that Court, which were not before determined, and are as follows:

The PRICES payable to the Clerk of the Commission for Plantation of Kirks, and Valuation of Tythes, as settled by an Act of the Lords, Novem. 17. 1708.

	Sterling.		
	l.	s.	d.
For raising and signeting a Summons	0	3	4
Calling a Summons	0	3	4
Inrolling a Cause	0	3	4
Acts and Diligences, each Sheet, besides Signet	0	6	2
Diligence, without an Act, each Sheet	0	5	0
Acts, at a Minister's Instance, for his Stipend, or } Augmentation thereof, each Sheet	0	4	1 1/2
Calling an Act	0	2	6
A Party's Oath	0	3	0
A Witness's Oath	0	2	0
Inrolling in the Roll of Causes to be prepared	0	5	0

140. Pre-

140. Preparing a Cause, to be modified by the Lord Ordinary, not under 5 Sheets, not above 10 Sheets.

Inrolling in the Roll of concluded Causes to be		l.	s.	d.
prepared	_____	0	5	0
Petitions	_____	0	5	0
Answers	_____	0	5	0
Each Production	_____	0	5	0
Calling a Cause, by Warrant from the Lords	_____	0	7	6
Attending Ordinaries, at making Localities for all the Diets	_____	0	10	0
Decreets of	Valuation	3	0	0
	Approbation	3	0	0
	Sale of Tythes	3	0	0
	Erection	3	0	0
	Prorogation	3	0	0
	Reduction	3	0	0
	Abfolvitor	3	0	0
	Annexation	3	0	0
Disjunction	3	0	0	
All other Decreets	3	0	0	
The Extracts of all Decreets, at a Minister's Instance, for his own Stipend, or Augmentation	_____	2	0	0

The Fees of the Macers in the Commission appointed by an Act of the Lords of the Commission, dated December 22. 1708.

	l.	s.	d.
For calling a Summons	0	2	6
An Act	0	2	0
A Party's Oath, either in Court, or on Commission	0	2	6
A Witness's Oath	0	2	0

F f

A Pro-

	l.	s.	d.
A Protestation	—	—	—
Decreets, at the Instance of Heretors, or Tacksmen	0	2	0
Decreets, at the Instance of a Minister for Stipend	0	5	0
Executing a Caption for returning Processes	0	3	4
	0	5	0

141. These Prices are declared to be in full of all to be exacted for Fees, or Drink-money, or any other Pretence whatever, either by Clerk, or the Macers of Court, who, with the Servants, are enjoined punctually to observe the above Prices: With Certification, if they failzie, they shall pay, for the First Transgression, 100 *l. Scots*, one Half to the Party Complainer, and the other Half to be disposed of, to such pious Uses as the Lords shall think fit.

142. For the Second Fault, they pay 200 *l. Scots*, to be divided as the former.

143. For the Third Malversation, Deprivation, and removing them from their respective Offices.

N^o IV.

Anno 1587. Act 73.

Of the Sovertie to be founden be Officiares of Armes: And of their daylie Wage.

ITEM, For the better and mair sair serving of the King, be Officiares of Armes; It is statute and ordained, That nane be retained, or hereafter admitted to that Service; but he that with his utheres Injunctiones shall finde Sovertie to be alwaies furnished with a sufficient reddie Horfe, quhair-upon to serve his Hienes and Lieges, and that his Sovertie fall be answerable for the Damage and Interest of his Falsed, Slouth, and informal Doing, in his Hieneffe Service, or uther Parties, gif onie fall happen: And that the Wage of onie Officiar of Armes on the Day fall be ane Marke-Money, Summer and Winter over head.

Anno 1587. Act 84.

Officiars of Armes, convict of Falsed, suld be punished to the Death.

ITEM, It is statute and ordained, That Officiares of Armes, committand Falsed, or Oppression of the Lieges in Execution of their Office, fall be called therefore before the Justice, or his Deputes at Justice, or Aires, or particular Diettes, and punished to the Death, in case they be found culpable.

Anno 1594. Act 208.

Anent Soverties for Officiares of Armes.

ITEM, Because that the Soverties of all Officiares of Armes be admitted be *Lyon* King of Armes, are found to him and his Clerk: It is therefore statute and ordained, That they be charged

charged twice in the Zeire, to produce their Buikes of Sovereities, to the Effect our Sovereine Lord of his Thefaurar bee nocht defrauded of the Halfe of the Penalties for the deprived Officiars; and this to be used of the Thefaurar, in sik sort as the Schireffe Clerks ar ordained to produce their Hornings, to the Effect, that Execution may follow thereupon: And the Thefaurar to be charged with the Receipt of the foresaids Penalties, in his Comptes. And further ordains all the saidis Officiars, that hes not found sufficient Caution for dew Administration in their Office, or quhais Cautioneris are deceased, or are not sufficient, to find Caution of new, betwixt and the First Day of *August* nixt to cum; urtherwise, the not finding of the said Caution, is presentlie declared to be Cause of their Deprivation. Quhilk Deprivation fall be immediatelie published at the Mercat Croce of the Schirefdomes quhair the saidis Officiars remainis; and all their Executions fra thencefurth to be un authentick and null.

Anno 1663. Act 21.

Act anent Manfes and Glebes, and Poinding for Ministers Stipends.

OUR Sovereign Lord, considering the great Difficulties which oftentimes the Ministers of the Gospel do meet with in the due Payment of their Rents and Stipends, so that they are sometimes forced to use legal Execution by Poinding; and, in so doing, are necessitate to carry the Goods poinded to be apprised at the Mercat-Cross of the Head-Burgh of the Shire, Stewartry, Bailery, or Regality, many Miles distant from the Place where the Goods are poinded, to the great Prejudice of the Party, and of the Goods also: Therefore his Majesty, with Advice and Consent of the Estates of Parliament, declares, That it shall be sufficient to the Ministers foresaid, in poinding, apprising, distrenzing the Goods of the Persons deficient in Payment of their Rents and Stipends, to comprise the saids Goods, by honest sworn Men, upon the Ground of the Lands and Place where the Goods, which shall be as sufficient as the same were done at the saids Mercat-Crosses. And because, notwithstanding of divers Acts of Parliament made of before, divers Ministers are not yet sufficiently provided with Manfes and Glebes, and others do not get their

their Manfes free at their Entry; therefore our Sovereign Lord, with Advice foresaid, statutes and ordains, That where competent Manfes are not already built, the Heretors of the Paroch, at the Sight of the Bishop of the Diocese, or such Ministers as he shall appoint, with Two or Three of the most knowing and discreet Men of the Paroch, build competent Manfes to their Ministers, the Expences thereof not exceeding One thousand Pounds, and not being beneath Five hundred Merks. And, where competent Manfes are already built, ordains the Heretors of the Paroch to relieve the Minister, and his Executors, of all Cost, Charges, and Expences, for repairing of the foresaid Manfes; declaring hereby, That the Manfes being once built and repaired, and the Building or Repairing satisfied and paid by the Heretors, in manner foresaid, the saids Manfes shall thereafter be upholden by the incumbent Ministers, during their Possession, and by the Heretors, in time of Vacancy, out of the readiest of the vacant Stipend. In like manner ordains, That every Minister have Fuel, Forrage, Feal, and Devots, according to the Act of Parliament made in *Anno 1593.*: As also, That every Minister (except such Ministers of Royal Boroughs, who have not Right to Glebes) have Grafs for One Horfe, and Two Kine, over and above their Glebe, to be designed out of Kirk-Lands, and with Relief, according to the former Acts of Parliament standing in force; and if there be no Kirk-Lands lying near the Minister's Manse, out of which the Grafs for One Horfe, and Two Kine, may be designed, or, otherwise, if the saids Kirk-Lands be arable Land, in either of these Cases, ordains the Heretors to pay the Minister, and his Successors, yearly the Sum of Twenty Pounds, *Scots*, for the said Grafs for One Horfe, and Two Kine, the Heretors always being relieved according to the Law standing of other Heretors of Kirk-Lands in the said Paroch. And, because several Kirks have no Glebes as yet design'd to them, it is hereby specially provided, That in all Designations of Glebes, Incorporate-Acres, in Village or Town, where the Heretor hath Houfes and Gardens, the same shall not be design'd, he always giving other Lands nearest to the Kirk. And his Majesty, with Advice aforesaid, for special Causes and Considerations, declares, That this present Act, as to the Manfes, is to have Force, as the same had been made and dated the 14th of *March 1649.*

N^o V.

6. *Act for the ordering of Suspensions of the Benefices and Stipends of the Clergy.*

November 30. 1669.

THE King's Majesty being careful that the Maintenance of the Clergy be duly secured unto them, and that they be not withdrawn by unneccessar Law-suites, for Recovery thereof: Doth therefore, with Advice and Consent of his Estates of Parliament, statute and ordain, that no Suspension shall be past in time coming against any Archbishop, Bishop, Minister of the Gospel, or Universities and Colledges, of any Charges to be given at their Instances for Payment of the Rents of their Benefices, Stipends, or Colledge-rents, where they have special Decrets, against the Heretors or Possessors due and liable in Payment thereof to them; except upon Production of Discharges, or Consignation of the Sums charged for, if the Rent of the Benefice or Stipend consist in Money; or of One hundred Merks Scots for ilk Chalder of Victual where the same consists in Victual, and proportionally if the Victual charged for be less than a Chalder, without Prejudice to the Lords of Session to modifye a greater or less Sum for the Chalder of Victual, as they shall find Cause at the Discussing of the Suspension. And if any Bill of Suspension of a General Charge shall be presented in time of Session, That the Ordinary Lord upon the Bills, before the passing thereof, call for the Chargers at the Bar, that they may instruct the Ground of the Charge: And in case it shall be found by the Lords of the Session, at the Discussing of the Suspension, that either the Charge hath been maliciously given, or maliciously suspended; That the Lords modifye a Fifth Part of the Sum charged for, of Expenses of Plea to be payed by the malicious Charger or Suspender.

27. *Act concerning the Church.*

July 16. 1695.

AND his Majesty, with Consent foresaid, for the greater Encouragement of all Ministers of the Gospel, nor only ratifies the Act of Parliament 1669. forbidding all Suspensions of
Special

special Decrets and Charges for Ministers Stipends, or the Rents of their Benefices, except on Production of Discharges, or upon Consignation in manner therein provided: But further statutes and ordains, that there be no Advocation, or Sift of Process granted of Actions for the said Stipends, or Rents of Benefices, when pursued before inferior Judges, and that, in the Case of a Decreet, there be neither Suspension nor Sift of Execution granted, except on Production of clear Discharges or Consignation, as said is; and if any Suspension be past, that the same be summarily discussed at the Instance of the Charger without abiding the Order and Course of the Roll: And that if the Letters be found orderly proceeded, the Suspender be also decerned at least in a Fifth Part more than the Sums charged for, with what more the Lords shall judge reasonable to be payed to the Charger for his Expense and Damage; and if any Minister shall happen to pursue for his Stipend by way of ordinary Action before the Lords, it is hereby farther ordained, that the same be summarily proceeded in, and discussed, without abiding the Course of the Roll.

20. *Act, ordaining Annual-rent to be due after Horning.*

August 4. 1621.

OUR Sovereign Lord, and Estates of Parliament, considering the great Prejudice which divers of his Majesty's Lieges sustaine by the Want of their Money, lent and given forth upon Band, or Contract, or otherwise justlie owing unto them, by their Debtors: Who having used all Execution competent to them by Lawe, against their Debtors, by charging and putting of them to the Horne, are forced, after many Years, to receive their principal Summe and Penaltie, without any Satisfaction of their annual Rent, and Interest of their Money in the meane time. Which as it is a Prejudice unto the true Creditors; so it is ane Occasion to the Debtors to contemne his Majesty's Charges, and Letters of Horning: Who resolve in End to pay no more for Reliefe of the Horning, after many Yeares Delay, then they were obliged unto at the Beginning.

For Remeed whereof, his Majesty, with Advice and Consent of the Estates of Parliament, statuteth and ordaineth, That whensoever any Person is denounced Rebel, and put to the Horne, for not Payment of Summes of Money, owing by him, by Band, Contract, or otherwayes; That after the said Denunciation, the said Person so denounced, shall be subject in Payment of Annual-rent
for

for the said Summes for the which he is put to the Horne, and that of all Yeares and Tearmes from the Date of the said Denunciation, unto the Time of Payment of the same: And that notwithstanding there be no Paction, nor Condition of annuel Rent made betwixt the said Parties, which may bind the said Partie who is denounced Rebel, unto the Payment thereof. And such Persons as are now standing Rebels, and at the Horne, this Act shall not worke against them (*quod præterita*), but shall have Strength and Force against them in time comming, from the Feast of Martinmesse next in this instant Yeare of God One thousand Six hundredth Twentie-and-one Yeares; and they shall begin tobe subject in Payment of annual Rent at that time, and yearly and tearmly thereafter, until the Payment of the principal Summe.

N^o VI.

Extract Sederunt of the Heretors of the Shire of Edinburgh, held within the inner Session-house of Edinburgh, upon Tuesday the 12th June 1750.

M Arquis of Lothian.	Mr. Robert Dundas, younger, of Arniston.
Earl of Morton.	Archibald Tod, of Hayfield.
Earl of Lauderdale.	Mr. William Binning, of Wallyfoord.
Earl of Hopetoun.	James Forrest, of Comieston.
Lord Ross.	William Drummond, of Hatherndean.
Lord President of the Session.	Archibald Broun, of Blackfoord.
Hugh Dalrymple, Esquire, of Drummore, one of the Senators of the College of Justice.	Dr. John Clerk, of Spittle.
Sir John Clerk, of Pennycook, one of the Barons of Exchequer.	George Drummond, of Easterhalls.
Master of Torpichen.	John Mitchelson, of Middleton.
Sir William Dalrymple, of Coulsland.	Ronald Campbell, of Balerno.
Sir John Inglis, of Cramond.	Andrew Chalmer, of
Sir Alexander Dick, of Prestonfield.	Mr. Robert Clerk, of Firrhill.
Sir Robert Myreton, of Gogar.	Alexander Le Grand, of Bonningtoun.
Charles Hope-Vere, of Craigie-Hall, Esq;	James Turnbull, of Currie.
	Mr. Archibald Murray, of Murrayfield.
	William
	John Belsches.

William Morison, of Craigleith.	Mr. Thomas Calderwood, of Polton.
Alexander Foulis, of Ratho.	William Campbell, of Hobbs.
Robert Hepburn, of Baads.	Edward Burd, of Knightsrigg.
John Davidson, of Whitehouse.	Mr. Archibald Inglis, of Auchindinny.
James Watson, of Saughton.	Thomas Craig, of Riccarton.
Thomas Wood, of Warrieston.	William Tytler, of Woodhouse-lie.
James Dewar, of Vogrie.	Robert Balfour Ramsay, of Whitehill.
Thomas Wilkieson, of Chesterhall.	Mr. Robert Wallace, of Damhead.
John Howison, of Brachead.	George Pringle, of Torwoodlie.
John Preston, of Gourton.	James Scott, of Howden.
John Borthwick, of Crookstone.	John Dewar, of Canaan.
John Sivewright, of Meggaland.	Thomas Adison, of Carcant.
John Philp, of Greenlaw.	John Cockrane, of Ravelrigg.
Alexander McConnachie, of Meadowbank.	Andrew Balfour, of Braidwood.
Robert Cleland, Portioner of Kirknewton.	Adam Fairholm, of Greenhill.
Andrew Houston, of Calderhall.	Patrick Henderson, of
John Scott, of Malleny.	Thomas Cranston, of Dewr.
John Young, of Humbie.	John Taill, of Pirn.
Robert Dalrymple, of Dreg-horn.	John Nisbet, Portioner of Water of Leith.
William Baird, of Newbyth.	

The Right Honourable the Earl of Lauderdale, High-Sheriff of this Shire, opened the Meeting by acquainting them, That he had called them together, at the Desire of the Commissioners of Supply, in order to take into Consideration the late Proceedings of the Clergy on a Scheme of Augmentation of their Livings, and of applying to Parliament for that Effect; and to deliberate upon what Measures might be proper to be taken and followed forth by them upon this Occasion.

The Meeting, having elected the Right Honourable Robert Dundas, of Arniston, Lord President of the Session, to be their *Præses*, took the said Matter under Consideration; and, after mature Deliberation, and Reasoning thereupon, came to the following Resolutions; *viz.*

That it is the Opinion of this Meeting, That the Scheme for the Augmentation of the Ministers Stipends in Scotland, as it has

H h

been

John Belsches.

been formed and carried on by several of the Clergy, and has been published and explained by the Proceedings of the Church-Judicatories, and their Committees, who have had it under their Consideration, will, if it should succeed, prove highly detrimental to the Landed Interest in *Scotland*, and a strong Inroad upon their Property; will tend to put their Rights to the Tythes, purchased for high and valuable Considerations, upon the Faith of the Laws, as they have now stood for upwards of One hundred Years, into the utmost Confusion; and will render them intirely uncertain and precarious, and lay a Foundation for endless and inextricable Law-suits.

That it will manifestly tend to the Disquiet and Disturbance of the Peace of the Country, and may be prejudicial to the Interest of Religion itself, as well as of the Clergy, by souring the Minds of the People, and alienating their Affections from the Pastors of the established Church; whereas nothing can be more agreeable and advantageous than an harmonious Union, and a good Understanding, betwixt Ministers and their People in particular, and betwixt the Clergy of the established Church, and the Landed Interest in general:

That for these, and many other obvious Reasons, this Scheme ought to be opposed by all legal Methods, and particularly by a Counter-application to Parliament, in case the Clergy shall bring their Scheme into either House: And, for that Purpose, and for the better managing and conducting that Opposition,

The Meeting appointed the Right Hon. the Earls of

Morton, } and { The Hon. Charles Hope-Vere,
Lauderdale, } and { Robert Dundas, and
Hopton, } and { Archibald Murray, Esqrs;

as a standing Committee, any Two a Quorum, to correspond with the other Counties in *Scotland*, to meet and advise with such Persons as shall be appointed by them, and to concur with them in concerting and carrying on such Measures as they shall see proper, for disappointing the Success of the said Scheme; and to correspond with Members of Parliament, and give them proper Information in such Matters as may seem useful or necessary for the right understanding of any Questions that may arise in relation to this Affair, particularly as to the State of the Teinds, the present Situation of the Clergy with respect to their Stipends, and the Powers already competent by Law to the proper Judicatory, for increasing such Stipends, when the Circumstances of the Teinds, and of the Parish, can allow it:

With

John Belfches.

With Power to them to concert proper Methods for raising Money towards defraying the Expence of opposing this Project, and to raise the same accordingly; to employ such Agents, Managers, and learned Counsel, for carrying on this Opposition, as they shall think fit; and, in general, to do every thing that can fall under the Power of such a Committee, which shall be thought necessary for preventing the Prejudice that may arise to the Landed Interest, by the Success of this Scheme:

And, more particularly, to make such Application to Parliament, by Petition or otherwise, as they shall judge proper, either in Name of this County singly, or in Concurrence with other Counties, who shall think fit to join with them.

And the Meeting ordered these their Resolutions to be published in the News-papers, that the Gentlemen of other Counties may be acquainted therewith; and may have Opportunity of concerting and settling such Correspondence with this Committee, as they shall think fit.

Extracted forth of the *Sederunt* Books of the Heretors of the Shire of *Edinburgh*, upon this and the Four preceding Pages, by Mr. *John Belfches*, Advocate Sheriff, Clerk Principal of *Edinburgh*, and Clerk to the Meeting.

John Belfches.

At Peebles, the First Day of June, One thousand Seven hundred and Fifty Years.

THE which Day the Justices of Peace, Commissioners of Supply, and Heretors, of the Shire of *Tweeddale*, met here this Day, having taken to their serious Consideration the Application intended to be made to Parliament by the Ministers of the Church of *Scotland*, for augmenting, obtaining, and uplifting their Stipends; have unanimously determined, to the utmost of their Power, to oppose, by all lawful Means, this (in their Opinion) imprudent and unjustifiable Attack upon their Properties; and, in order thereto, have appointed a Committee of their Number to meet at *Edinburgh* on *Tuesday* the Sixth of *November* next to come, there to concert with Gentlemen, who shall be appointed to meet with them from other Counties, such Measures as shall be thought most proper to ward this intended Blow: And, that they may have the Advice and Concurrence of their Countrymen in this Matter, in which the Interest of the Whole seems so much

J. Nasmyth.

concerned, they have ordered this their Resolution to be published in the News-papers, in Hopes other Counties, who resolve to oppose this Attack, will appoint some of their Number to meet, with their Committee, at the Time and Place above-mentioned.

Signed, by Order and in Presence of the Meeting, by Sir *James Nasmyth*, of *Posso*, Baronet, *Præses*. Signed
J. Nasmyth.

Thereafter the Commissioners nominate and appointed Sir *James Nasmyth* their *Præses*, Major *Cochran*, Mr. *Vertch* of *Bogend*, Mr. *John Carmichael*, Advocate, Mr. *James Montgomery*, Sheriff, Depute to meet with the Gentlemen of other Shires, that shall be appointed, to concert as above. Signed
J. Nasmyth.

Extracted from the Commissioners Books of Supply of the Shire of *Tweeddale*, on this and the preceding Page, by
John M'Euen, Clerk.

At *Peebles*, the Second Day of October One thousand Seven hundred and Fifty Years.

THE which Day the Freeholders, and others the Heretors of the Shire of *Tweeddale*, met at *Peebles*, in pursuance of circular Letters wrote to them by their Convener for that Effect, having considered what further Steps might be proper for them to take for carrying into Execution their former Resolution of opposing, by all legal Methods, the Scheme for Augmentation of Ministers Stipends, are unanimously of Opinion to agree with other Counties in committing the Management of this Opposition to the noble Lords and Gentlemen appointed by the Shire of *Mid-Lothian*, as their standing Committee for opposing the said Scheme; and empower them to act, for and in Name of this County, in the same Way that they do for their own, by employing Agents, Managers, and learned Counsel, or, if Need be, by applying to Parliament by Petition, or otherwise, in their Name, as well as that of their own; and in general to do every thing else they judge proper for disappointing of the said Scheme; and have directed the Committee, formerly appointed by this Shire, to correspond with the *Mid-Lothian* Committee, and give them all the Information and Assistance in their Power: And, in order to raise a Fund for defraying the Expence of this Opposition,

John M'Euen, Clerk.

tion, they are resolved to follow the Method taken by the *Mid-Lothian* Committee, and transmit the Money, so collected, to Mr. *Andrew Chalmer*, their Clerk; and have directed Sir *James Nasmyth*, of *Posso*, Baronet, their *Præses*, to acquaint the noble Lords and Gentlemen of the *Mid-Lothian* Committee with this their Resolution, and to send them an Extract thereof: And further have instructed Mr. *John Dickson*, younger, of *Kibbucho*, Advocate, their Representative in Parliament, to oppose, as much as in him lies, every Step the Clergy shall take to carry on their said Scheme. Signed

J. Nasmyth, *Præses*.

Extracted, on this and the preceding Page, by

John M'Euen, Clerk.

N^o VII.

At *Edinburgh* the Thirteenth Day of May, One thousand Seven hundred and Fifty-one Years.

WHICH Day Mr. *John Gowdie*, Professor of Divinity in the University of *Edinburgh*, produced, to the General Assembly of the Church of *Scotland*, a Letter from Mr. *Robert Patoun*, Dr. *Patrick Cuming*, Mr. *William Steel*, Ministers, and Mr. *David Dalrymple*, Ruling Elder, Commissioners from the last General Assembly, now at *London*; and read a Letter directed to him, inclosing the same, desiring him to present it to the Assembly: Which, being read, is as follows:

Rev. Sir,

That you may have a clear and full View of the Whole of our Proceedings here, we have judged it proper to give you the following Account.—After being at all Pains to be sufficiently instructed in the Nature of the Business committed to us, and which we reckoned ourselves indispensably obliged to prosecute, Three of us set out for *London*, where we arrived upon the 17th of *November* last, judging it necessary to be here so early, that we might have time to remove, if possible, the Prejudices which had been raised against us, and have more Leisure and Opportunity to give a fair Representation of the Instructions given us by Conference with those principally concerned in the Administration, before the Meeting of Parliament, when probably we could not have such easy Access to them. Accordingly, at different

George Wishart.

ferent times, we waited upon the Ministers of State, and other Persons of the highest Rank and Influence; had a fair Hearing from them, and Opportunity to obviate, in the best manner we could, the Objections which had been moved against us: We were received by them with great Civility, and with Expressions of high Regard to the Church of *Scotland*, for our distinguished Loyalty and Usefulness; but had no definitive Answer from them, further than that they would have the Matter under their Consideration, and hear what might be represented upon the other Side, by the Members of Parliament from our own Country. After the Meeting of the Parliament, we waited upon many Members of it, in both Houses, from *North* as well as *South Britain*, who were reckoned to have the greatest Influence; and endeavoured, in the best manner we could, to reconcile their Minds to the Views of the General Assembly; particularly with respect to the raising of the *Minimum*.—As soon as we received our Records, and other Papers, necessary to state and support our Cause, we gave in, to the Ministers of State, a written Memorial of the several Articles given us in Charge by the General Assembly: And, some time after, we printed that Memorial, with Additions, under the Title of, *A just View of the Proceedings of the General Assembly, &c.* Copies of both which we transmitted to the Committee of Correspondence; wherein we particularly insisted upon the Reasonableness and Necessity of raising the *Minimum*. When it was thought proper, we had the Honour of being presented to his Majesty, and the Royal Family, and were graciously received.—We omitted no Opportunity of promoting our Cause, as far as we were capable; but, after all our Diligence, we were assured by these chiefly concerned in the Administration, that, in the present Circumstances, we could have no Hope of getting the *Minimum* raised; and that the mentioning of it in our Petition would destroy the Whole of it. In this Situation we found ourselves obliged, tho' with the greatest Reluctance, to drop what, we were convinced, was by far the most important Part of our Commission, and which could give the most effectual Relief; and which we knew the General Assembly had had most at Heart; and to submit, that our Petition, under the Direction of the Lord Advocate for *Scotland*, should be framed and presented by him, with the Consent of the Earl of *Morton*, and of Mr *Hope*, only with relation to the other Articles contained in the Instructions given us by the General Assembly. And to this Resolution of framing and offering our Petition upon these Articles only, we were moved

by
George Wishart.

by these Reasons: *Primo*, Because we were expressly instructed by the General Assembly to apply to Parliament for Relief in these Articles: Two of them particularly had been pointed out and recommended to the Assembly One thousand Seven hundred and Fifty, by the Committee which had been appointed by the preceding Assembly: And tho' we were sensible it was the Mind of the Assembly One thousand Seven hundred and Fifty, that we should urge the raising of the *Minimum*; yet the Instruction relating to it was so worded in our Commission, as to give a Handle to the Opposition, and to others also, to say, that we were positively appointed to insist upon the other Articles only. *Secundo*, Because we had just Reason to expect the Concurrence of the Ministry, to render our Application for these other Articles effectual: And had strong Assurances from such who had formerly opposed us, that they would use their best Offices to render our Application successful. *Tertio*, Because we judged it better to obtain something, tho' of lesser Consequence, than to lose all; and in this View we were greatly encouraged by some of the best Friends of the Government, and of our present happy Constitution, who all along show'd a Disposition to favour us so far as Circumstances would allow.—It had been agreed, for the sake of Harmony and Peace, that our Petition should lie upon the Table, until an Answer should come from the Committee of *Mid-Lothian*, how far they would acquiesce to our obtaining a Bill upon it: A favourable Answer was then expected; but we were disappointed in the Event. We then urged the moving of our Petition in Parliament: But our Friends, in Hopes of that Committee's coming into more pacifick Measures, still urged a Delay; to which, for the sake of Peace, we agreed. The mournful Event of the unexpected Death of the Prince of *Wales* for some time retarded Business; but when we were assured, at length, that there were no Hopes of accommodating the Matter with the *Mid-Lothian* Committee, but by dropping our Petition entirely, we thought it our Duty still to insist upon it; because when our Petition was laid upon the Table, it was understood to be with a View to have it taken up, whatever Answer should be sent from the Committee of *Mid-Lothian*; and because there was not the least Colour or Foundation for any of the publick Resolutions of the Counties of *Scotland* to oppose us in these Articles, to which the Assembly had agreed without a Vote.

When
George Wishart.

When our Petition was moved in the House of Commons, a Committee was appointed to enquire into the Allegations of it, and to report the same to the House: At the same time a Petition from the Members of the Committee of *Mid-Lothian*, in Opposition to ours, was offered to the House, and referred to the same Committee. We have finished our Evidence in Two Diets of that Committee. The Opposition have taken up Two Diets more, in offering Evidence to invalidate the Allegations of our Petition: And the Committee is adjourned to *Tuesday* next; when the Opposition are to proceed in laying what further Evidence they have to offer before the Committee: And we can plainly perceive their Design is to protract the Time in such a manner, as that our Affair shall not be brought to any Issue, before this Session of Parliament is ended; where we have good Reason to hope our Petition would be granted. And here we must beg Leave, further to inform you, that not only many Members of Parliament, but all impartial Persons whatsoever, are not a little surpris'd that such a keen Opposition should be made to these Articles; which cannot in the least hurt the Landed Interest, tho' they may be of Benefit to us: And that they cannot ascribe this to any other Motive or Principle, than to give an absolute Discouragement to any future Application to Parliament, from the Church of *Scotland*, upon any Occasion; which is to exclude us from the Privilege of *British* Subjects. We have only to add further, That as soon as we were informed of some Surmises spread here, as well as with you, that Occasion would be taken from our Petition, to make some Attempt in Parliament for binding the Law of Patronages more strictly upon the Church of *Scotland*, we applied the greatest Diligence to see what Ground there might be for such a Report; and, if there was any such Design, to prevent it, even before we had any particular Instruction for it, from the late Commission of the General Assembly: And as we wrote formerly, we have good Reason still to believe that no such Design is formed by these chiefly concerned in the Administration: But if, contrary to our Expectation, any such Attempt should be made, we shall still continue faithful and diligent to do every thing in our Power, to prevent it. And with great Regard, we are, Reverend and Dear Sir, your very affectionate humble Servants (Signed) *Robert Patoun, Patrick Cum- ing, William Steel, David Dalrymple.* (Dated) *London, Pantons-quare, May the 4th, One thousand Seven hundred and Fifty-*
enc.

George Wisbart.

The

The General Assembly, after some Reasoning, did agree to appoint a Committee to meet this Afternoon, for considering the above Letter from the said Commissioners; and report an Opinion thereupon to the Assembly, at their Meeting To-morrow Morning, immediately after the Reading of the Minutes of this Diet; when the Assembly shall either take up the Consideration of this Affair themselves, or recommit it, as they see Cause: And the following Members are hereby appointed as a Committee for the Purpose above-mentioned; *viz.* The Moderator Principal *Campbel*; Principal *Wisbart*; Principal *Tulledeph*; Professor *Lumsden*; Masters *James Ogilvie, John Adam, George Lindsay, James Nasmyth, James Rob, James Howie, John Hunter, William Steel, John Smith, Adam Ferguson, Robert Robertson, David Duncan, Robert Wight*, Ministers; Lord President, Lord Justice Clerk, Lord *Drummorie*, the Master of *Ross*, Baron *Maul*, Mr. *Gilbert Elliot*, Mr. *Andrew Pringle*, Lord Provost of *Edinburgh*, Mr. *Balfour*, of *Pelrig*, Mr. *Stewart*, of *Allanbank*, Commissioner *Campbell*, Ruling Elders. Of the above Committee Seven are declared to be a *Quorum*; whereof Four to be Ministers, and Three to be Elders: And the Assembly appoints them to meet, at Five o'Clock this Evening, in the Laigh Council-house.

Extracted upon this, and the Seven preceding Pages, by

George Wisbart, Cl. Eccl. Scot.

Reverend and Honourable,

YOUR Letter, of Date the 4th of *May*, directed to the Reverend Professor, Mr. *John Gowdie*, was by him, according to your Desire, communicated to, and has been considered by this Assembly: And since it appears by it, that you were reduced to the Necessity to drop that Point relating to Enlarging the *Minimum*, mentioned in the Act of Parliament 1633: the Assembly does now instruct you to carry on the Petition which you have presented to the Honourable House of Commons, and to bring the same to as comfortable an Issue as you can: And, at the same time, the Assembly does further instruct you to use your utmost Endeavours to prevent the adding any Clause to a Bill, which may be brought in upon the said Petition, or to any other Bill which may be detrimental to the Interests and Concerns of this Church; and particularly any Clause which may

K k

ex end

extend or further enforce the Law of Patronages, and to employ Counsel to be heard against any such Clause; and to apply to Parliament for that Effect, as you shall be advised, or think proper. This, in Name and by Order of the General Assembly of the Church of *Scotland*, is signified to you by,

Reverend and Honourable,

Your most humble Servant,

James Mackie, Moderator.

Edinburgh, 14th May, 1751.

Directed

To the Reverend Mr. *Robert Patoun*, Moderator of the late General Assembly of the Church of *Scotland*, at his House in *Panton-Square*, *London*.

F I N I S