

1780. July 14. HAY and LOW *against* WILLIAMSON.

Certain heritors of a parish pursued the Minister for repetition of the money for communion-elements for 12 years, during all which time he had omitted to administer the holy sacrament. Urged in defence, The money for communion-elements is to be considered as a part of a Minister's stipend, of which he cannot be deprived, unless he is previously deposed from his function by the proper ecclesiastical court. The Lords found no claim of repetition competent.

Fol. Dic. v. 4. p. 301.

* * This case is No. 4. p. 2492. *voce* COMMUNION-ELEMENTS.

1786. December 23.

MR. WILLIAM MITCHELL, Minister of Tingwall, in Zetland, *against* The HERITORS of that Parish.

The stipend of the parish of Tingwall received an augmentation in 1722. In 1786, however, Mr. Mitchell, the Minister, having brought against the heritors a new process of augmentation, the defenders

Pleaded: The Court have no power to grant a new augmentation of any stipend which has already been augmented since the passing of the act of Parliament of 1707, Cap. 9. from which they derive their authority.

By that statute a commission was conferred on the Lords of Session, investing them with the same powers that by the statutes of 1633, C. 19. 1690, C. 23, 30. and 1693, C. 24. had been entrusted to former commissioners of teinds. With respect to the stipends of Ministers, the power committed was, "to appoint constant and local stipends;" which plainly implies, that the appointment was single, and not to be repeated. For this being once made, and the object of the commission so far accomplished, its powers must cease of course; and nothing but a renewal of it can authorise a second appointment, or a new augmentation of stipend. If, in the progress of time, either the lowering of the value of money, or any other circumstances, give occasion for an addition to the livings of the Clergy, it will belong to the Legislature to grant a new commission, with correspondent authority. The present demand from the Court is unprecedented, as well as illegal. For in a few instances, in which there is the appearance of a second augmentation having been granted, it will be found, that the first had been brought about by collusion, and as such was entitled to no regard.

Answered: Prior to 1633, they were mere temporary expedients that were adopted for the provision of the Reformed Clergy. Afterwards the change introduced into the state of teinds by the decreets-arbitral of King Charles I. rendered it necessary to invest the commissioners with enlarged powers. Teinds were de-

No. 29.

No. 30.

A Minister's stipend augmented posterior to the Union, not to receive an after augmentation.

Reversed on appeal.