

APPENDIX.

PART. I.

STIPEND.

1777. *February 19.*

CORNELIUS ELLIOT, Writer to the Signet, *against* The MINISTERS of Abbotrule, Hobkirk, and Chesters, and the PRESBYTERY of Jedburgh.

No. 1.

IN this case, the Court, as Commissioners of Teinds, suppressed the parish of Abbotrule, and divided the stipend between the ministers of Hobkirk and Chesters, and authorised an excambion of the glebe.

Before doing so, they ordered a search in the teind-record for precedents.

A copy of the excerpts produced follows :—

Decree of conjunction, annexation, and erection, the heritors of Kirknewton, against the heritors of East Calder. December 10, 1750, January 23, and February 6, and 20, 1751.

—“ The Lords unite and annex the parishes of Kirknewton and East Calder into a parish or pastoral charge, to be called The united parishes of Kirknewton and East Calder, in all time coming : Find, That a new kirk must be built, and ought to be situate as near as possible to the large stone called the Gunner’s stone : Find and declare, That the present church-yards and burial-places of the said two parishes, shall be fenced with dikes according to law, and continued to be the burial-places of their respective parishes, in all time coming : Find, That the two old manses and glebes ought to be sold by public roup ; and that the price arising from the sale of both, should be bestowed in purchasing a new glebe, and building thereon a new manse and offices, as near and contiguous to the new kirk as can be had ; and empower commissioners for that purpose.”

No. 1. The Because of this decree is, That the two parishes were but a decent charge for one minister, and convenient for all the parishioners; and the inconveniency of any of them was small, and far overbalanced by the conveniency to much the greater number of both parishes. This is found by a perambulation of the parishes by commissioners named by the Court for that purpose.

Decree of annexation, the patrons and heritors of Houston and Killellan, against the Presbytery of Paisley. February 13, and July 23, 1760.

—“The Lords unite and annex the parishes of Houston and Killellan into one parish and pastoral charge, to be called, The united parishes of Houston and Killellan; and decern and ordain The heritors of Killellan to build an addition to the kirk of Houston, sufficient for accommodating the heritors and inhabitants of the said parish of Killellan; and of consent of the patrons, heritors, presbytery, and ministers of the said united parishes, grant warrant to the said heritors to dispose of the manse and glebe of Killellan, and materials of that kirk; and appoint the value thereof to be applied towards building the said addition; and ordain the present manse and glebe of Houston to be and remain the only manse and glebe of the said united parishes, after the death, transportation, or deprivation of either of the present incumbents.”

In this decree, it was objected by the procurator and the presbytery of Paisley, That the declaring the present manse and glebe of Houston to be the only manse and glebe of said united parishes; ordaining the manse and glebe of Killellan to be sold by the heritors, and the price to be applied for making an addition to the kirk of Houston; and the diminishing the present stipends (this was converting 5 chalders victual, at 10 merks per boll) at the death or transportation of any of the present incumbents; as these particulars were unusual, and incompetent, the procurator for the church thought himself bound to object to, as contrary to law and practice; but had no objection against the annexation.

The Court decerned in the annexation, and declared the stipends of both parishes, when the annexation should take place, to belong to the minister serving the cure thereof, also both glebes. But upon a petition for the pursuers, the annexation was recalled, and the parishes found to remain separate and distinct. Then there was a petition given in for the presbytery of Paisley, praying for what is found decerned and declared in the decerniture; and on answers for the heritors, &c. agreeing to the terms of the annexation, decree was pronounced accordingly, as mentioned in the decerniture, and converting the 5 chalders victual at 10 merks per boll.

No. 1.

Decree of suppression and annexation, the heritors of the parish of Kinnaird, against the Presbytery of Brechin, and Ministers of Kinnaird, Brechin, and Farnwell. January 29, and December 9, 1772.

“ The Lords suppress the kirk and parish of Kinnaird, and unite and annex part of it to the parish of Brechin, and part of it to the parish of Farnwell; and decern and ordain the benefice of the said parish of Kinnaird to be divided among the ministers of Brechin and Farnwell, (in manner therein mentioned;) and, particularly, £1. 10s. Sterling, as the interest of the supposed value of the half of the glebe of Kinnaird, to belong to the first minister of Brechin; and the interest of the other half thereof to belong to the minister of Farnwell; or, in place of the said interest, land designed contiguous to his present glebe, equivalent to the half of the said glebe of Kinnaird.”

The annexation was decerned in, although opposed by the procurator for the church, by authority of the General Assembly. But after the Court decerned in the annexation, the procurator for the ministers consented to the division of the benefice of Kinnaird.

Lord Ordinary, *Gardenston.* For Elliot, *Ilay Campbell.*
For Minister and Presbytery, *David Dalrymple.*

W. M. M.

1800. January 14. ALEXANDER LESLIE against The HERITORS of RAYNE.

ALEXANDER LESLIE objected to the locality of Rayne, imposing part of an augmentation on him, *inter alia*, because his property had originally belonged to the Knights Templars; Stair, B. 4. Tit. 24. § 9.; B. 2. Tit. 8. § 7., and had on that account been exempted from payment of stipend by a former locality in 1754, which he contended was now confirmed by prescription.

The heritors

Answered: It is doubtful if the Knights Templars ever enjoyed any exemption in Scotland, or to what extent. In all events, it was personal to themselves, and did not descend to their vassals and singular successors. Spottiswood's Account of Religious Houses, p. 239, &c.; Forbes on Tithes, p. 239, &c. 375. &c.; Mackenzie's Obs. on Act 29th, 11th Parl. Ja. 6.; Ersk B. 2. Tit. 10. § 14.; Minister of Barrie against Gairden, No. 108. p. 15721.

The locality 1754 was fixed without discussion, and is to be considered as *ex parte*.

The Lord Ordinary repelled the objection.

On advising a petition, with answers, the Lords 'adhered.'

Lord Ordinary, *Ankerville.* For Leslie, *J. W. Murray.* Alt. *Ja. Gordon.*

D. D.

Fac. Coll. No. 154. p. 348.

No. 2.
Temple-lands are not exempted from payment of stipend.