

Ministers heretofore were in Use to procure Decrees conform, upon Decrees of Locality obtained by their Predecessors: so called, quod secundum tenorem sententiae prius latae in omnibus formatur. Which piece of Diligence being found unnecessary inconvenient and chargeable, an Act of Session 22 June 1607 was made, declaring it needless for any Minister to seek a Decree conform upon his Predecessors Decree of Locality: and that upon a common Bill given in by a Minister, with his Act of Admagition and a Decree of Locality, the obtained by his Predecessors, Florning might pass against those liable for his Stipend. General Letters of Florning are allowed for implement of Decrees of Locality Act. 13. Sept. 2. Par. W. & M. Which Letters are effectual not only ^{against} the Persons concerned in the Decrees, but also against their Heirs and singular Successors possessing the Lands affected with such Localities Stat. lib. 4. tit. 97. s. 4. But Summary Florning was not sustained, at the Instance of a Ministers Executor for his Stipend 17 December 1623 Relict of the Minister of Livingston contra Parishoners. A Minister pinding for his Stipend may approve the goods on the ground Act 21. Par. 1. Sept. 3. Ch. 2. No special Decrees for Ministers Stipends can be suspended, except upon Production of Discharges, or upon Consignation of the Money or Sums charged for Act 6. Par. 2. Sept. 1. Ch. 2. And if Victual be the Subject of the Charge 100 Morchs must be consigned for each Chaldier, and proportionably where less than a Chaldier is charged: with out Prejudice to the Lords of Session, to modify more or less at the discussing. Actions for Ministers Stipends commenced in inferior Courts, cannot be advocated; Suspensions of, and Actions for them before the Session, are dismissed summarily; and Suspensions against whom the Letters are found orderly proceeded should be decerned in a fifth more at least than the Sums charged for Expences and Damage Act 27. Sept. 5. Par. W. & M. vid. part 7. B. 3. Chap. 3. tit. 1. As our Law has im-posed on Ministers summary and privileged Execution, for making their Stipends effectual by Payment; because they are commonly supposed not to have much to depend upon besides their Stipends, and consequently unable to wait them long: so Stipends not pursued within five Years, prescribe quoad modum probandi, and are presumed to be paid; unless the Presumption can be taken off by the Debtors Oath or by Writ Act 9. Par. 2. Sept. 1. Ch. 2. Nor was a mortgaged Stipend exempted from this quinquennial Prescription Mc Kenzie Observ. on d. Act. 9.

A Ministers Relation to his Church and Interest in the Stipend thereof is dissolved by his being transported to another Church, or deposed, or by his Resignation of his Charge in the Hands of the Presbytrie, and their accepting of it; or by his Death.

A Minister is transported from one Church to another upon a Call

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from the Heritors and Elders of a Country Parish, or from the Magistrates Heritors and Elders within Burgh, in the Way and Manner already set forth. When a Minister labours under insupportable Grievances in his Parish, whereby his Ministry is rendered undignifying to the People, and uncomfortable to himself; he may apply to the Presbytrie for an Act of Transportability. Who do thereupon appoint one of their Number to preach in that Ministers Church, and to advertise the Parishoners after the forenoon's Sermon, to appear before them upon a certain Day to answer to their Ministers Grievances. After hearing of both Parties, the Presbytrie, if the Complaint be found relevant, grant an Act of Transportability whereby the Complainers Relation to that Parish as their past Minister is so far loosed, that he is capable to receive a Call, and to be transported by the Presbytrie to another Church, without Necessity to cite his Parishoners for their Interest. But in the mean Time till he be transported, he must exercise his Ministry in that Parish, and hath Right to the Stipend; the Act of Transportability being occasioned by the Peoples Fault. But these Acts of Transportability are but rarely sought, and granted only where the Ministers Grievances cannot be otherwise redressed.

The grounds of depriving or deposing a Minister are established by Law Act 132 & 133. Par. 8. Act. 28 & 32. Par. 11. s. 6. Deposition is the depriving of a Minister wholly and forever, both of his Orders and of his Living. This differs from Suspension, which is only a temporary Punishment. Suspension is either ab officio, when a Minister for a Time is declared unfit to execute the Office of a Minister, which doth not exclude him from the Stipend 26 July 1661. Nor contra Parish of Cariden or Suspension a Beneficio, when a Minister for a Time is deprived of the Profits of his Beneficio. such Suspensions used to be inscribed for smaller Freshets.

The Popish Clergy at the Reformation finding themselves going to be turned out, did demit their Benefices reserving their own Lives: whereby the Benefices came to be neglected, since they who should have served the Cure had nothing for their Pains. To correct this Abuse, the Parliament annulled all such Contracts, and declared that no Provision to any Prelacy not granted by the Popes Decree Forfeiture or Simple Demission, should be valid Act 1. Par. 9. s. 6. A Ministers Title to his Church and Stipend is now extinguished and ceases by his Resignation of his Charge in the Hands of the Presbytrie, and their Acceptance of it: upon which by Order of the Presbytrie the Church is declared vacant.

The Time was when the Goods of the inferior Clergy, fell at their Death as caducary to the Bishop; and in like Manner they did meddle with his when he came to die. But now by our Law Prelates, that is, all Beneficial Persons, may have Heirs and Heirship Moveables 28 November 1623 Reg. contra Mc Kenzie Stat. lib. 3. tit. 5. s. 9. Mc Kenzie Observ. on Act 54. Par. 7. s. 3. The Law be express enties to Barons Gentlemen and Freeholders.

91