

Reduction and Improbation was raised upon the Revocation. Those who found themselves concerned therein gave Commission to the Earls of Roxburgh and Lithgow to go up with an Ambassy to the King, and lay the Grievance and Hardship of the Case before him. These Commissioners being stop'd at Stamford from proceeding on their journey by a Letter from his Majesty, sent up their Petition to Sir William Alexander of Menstrey, ^{then} Secretary of State and afterward Earl of Stirling, by whom it was presented to the King. His Majesty disrelishing it as of a Strain too high for Subjects and Petitioners, forbore them to see his Face. But being pacified in a little Time by Interposition of the Secretary and the Earl of Montrois they obtained Leave to come to Court, upon Acknowledgment of their Error. The King remitted to the Secretary and the Earl of Montrois to confer with them upon the Grounds of their Commission, who brought them to agree to his Majesty's Desire. Then the King restricted the Generality of his Revocation to Alienations of the Crown and ecclesiastick Revenue made contrary to Law. For ridding his Subjects of their Fears and jealousies, and that they might not be put to unnecessary Charges of repairing to Court to treat with him; he granted Commission to some of the Nobility Gentry and Clergy to deal with those who had any Right to Crown Lands Tithes Patronages and others falling within the Compass of the Revocation, concerning what should be done and given by and to them; and to make Acts thereupon which his Majesty promised ~~to~~ in verbo principis to ratify and approve in the first Parliament; but not to conclude finally in any Point without previously acquainting his Majesty therewith.

The Commission aforesaid convened and sat at Dinbargh from January to the last of June 1627, during which Time they made a considerable Progress in the Business committed to their Care. They referred the ~~Feudal~~ Composition to be paid for the Feudal Dutys and other constant Rent of Superiority to the King 29 May 1627, and that all Superiorities of Treditions should be resigned to his Majesty freely 29 June 1627. They ordained a constant Annuity to be paid to the King out of all Tithes, except those belonging to Bishops, Ministers Colleges Hospitals and other pious Uses: that is, Six Shillings of every Hundred of Tith payable in Money; out of every Tith Boll of the best Wheat ten Shillings, of the best Bear eight Shillings, of Oats Meal Pease and Rye Six Shillings, and where Oats will not sower above, Meal three Shillings, and where the Yeld is of inferior Goodness, his Majesty's Annuity to be modified proportionably 29 May 1627. Which Act concerning the Annuity was ratified in Parliament (Act 1. Par. 1. Ch. 1. Sir George Mackenzie's Observ. on d. Act. 15.) says that Annuity was found to be debitum fundi: because the King got Right to bygone and future Annuities. But it seems to be no more debitum fundi than Tithes themselves are. For when our Law designs to make any thing debitum fundi, and to oblige singular Successors, it uses to declare expressly, that singular Successors shall be liable. As to the Clause in the Statute ordaining Payment to his Majesty of Annuities of Years past and to come: that must be understood in a habile Sense, so as to make Intromitters only with the Tithes of bygone Years liable for bygone Annuities. Albeit the Sovereign's Annuity be not debitum fundi yet it being a Part of the royal Revenue, Letters of Horning against Intromitters

= matters with the Tithes, used to be granted summarily for Payment thereof Stat. Lib. 4. Tit. 24. s. 3. Again, the Tithes of the Surrenderers own Property, tho not submitted by them were liable to the Annuity, which was payable whether their Tithes were sold or not Act 17. Par. 1633. and out of unvalued as well as valued Tithes Act 15. Tit. 10. When Tithes are only valued, the Titular is bound for it, and the Receiver after a Sale 16 March 1632. Where Tithes appropriated to Burghs for maintaining of Ministers Regents of Colleges, School Masters and Hospitals, exceed the Expence for these pious Uses, the Burghs are obliged to satisfy the Kings Annuity out of the surplus (Decret Arbitr. upon the Burrows Submission.) Annuity is not due by the Kings Tacksmen for Tithes belonging to the Sovereign in Property, at the Time when Annuity was established by Law, albeit the Sovereign had Right to Annuities pure iudicia, and to these Tithes pure privato; and Annuities to be paid out of all Tithes except those belonging to Bishops Ministers &c. 3 Feb. 1708. M. of Weddale contra Orrock of that Tith. Because the Annuity being given to King Charles the first, as a gratification for passing from the Severity of his general Revocation, it cannot be thought to extend to Tithes that were in his Majesty's (before pure privato) sine res sua nemini servit; and the appointing Annuity to be paid out of all Tithes, except those above excepted, must be understood in terminis habitibus, of all Tithes whereof his Majesty had got the Right, not Lords of Erection and other Titulars. Now as the Annuity could not subsist as a Burden upon the Kings Property ab initio, it could not become due by the subsequent Grant of a Tack without a new Law: besides the Tacksmen's Possession is the Sovereign's Possession. Again, Annuity was not thought due out of decime included 10 January 1662. L. Rentoun contra Hor. Because 10 such Tithes having never been drawn, the Quantity thereof could not be known for determining what should be the Annuity. 2^o The Annuity was ordained to be paid to the King out of the Tithes, in Respect of his Majesty's confirming the questionable Rights of the Titulars who surrendered, and giving Receivers the Drawing of their own Tithes upon a Valuation: whereas Tithes included were neither surrendered, nor yet ever drawn. This Annuity not being annexed to the Crown, was disposed by the King to James Livingston one of his Bedchamber-men in Security and Satisfaction of ten Thousand Pound Sterling; which he transacted with the Earl of Loudoun. This Right having taken little ^{good} during the Troubles and civil Wars, the Earl at the Restoration of King Charles the second, got a Commission from his Majesty to sell every Man his own Annuity and to compose for Bygones; and to value Tithes that the Annuity might be known. He was appointed to dispose with ^{Consent of} two of the Lords of the Exchequer, and the Disposition to be recorded in their Books for instructing what was received. Many bought ^{the Annuity of} their Tithes from the Earl by Virtue of that Commission