

Sion. When any Titular acquires Right to the Annuity of his Tithes, the Annuity became extinct: *quia res sua nemini servit*. Therefore a Disposition of Tithes from one having also Right to the Annuity, was found to carry the full fee of Annuity, altho that was not expressed in the Disposition.

Forrester of Logic contra Wordie of Cambusbarrow and his Tenants.

After the Earl's Death, the Commission was renewed in Favour of James Earl of Loudoun his Son. Who proceeded therein, till a Stop came from the King in the year 1674 with a Proclamation discharging all Annuity preceeding the Year 1660: and since then we have heard no more of the Annuity.

The Parties concerned in Church Lands and Tithes having acquiesced in the Determinations of the Commission: that all Matters of Difference might be the more calmly and speedily adjusted, four Submissions to the King successively were drawn and signed. Most of the Lords of Erection, Titulars, Factors and others having or pretending Right to the Temporality or Spirituality of Benefices and the Heritors desiring to buy their own Tithes, drew up and signed one Submission: containing a procuratory Resignation in the King's Name <sup>the Commission</sup> and perpetuam renunciation of their Rights to Superiorities, referring to his Majesty to be given them for the Feudal Dutys and other constant Rents hereof: and for resigning their Rights to Tithes, except those of their own Lands, referring to his Majesty to determine the Rate and Quantity of the Tithes submitted. None with less Reason conceived greater Fears of the King's Revocation than the Bishops: who sent Adam Ballantyne Bishop of Dunblane, and Mr John Maxwell one of the Ministers of Edinburgh, to represent to his Majesty their Apprehensions, that the Commission of Surrenders would undo the Church. They could not be satisfied, how the Tithes that in the Act of Annexation were particularly reserved as the Patrimony of the Church, should be sold and disposed to the Heritors. The King endeavoured to clear them in the Matter, by a Letter explaining the Commission, and his own good Intentions, to have Churches supplied that were not already sufficiently provided; the Crown Revenue increased, and to give every Heritor his own Tithes upon reasonable Forms: withall he did them for want of Charity and groundless Fears. Whereupon the Bishops and the Rest of the Clergy finding the King bent upon the Thing, were at Length induced to make a Submission of all their Tithes, whereof they were not then in Possession by drawing the Tithes, or uplifting rental Bolls; leaving the Heritors who were liable in the Tithes, to submit themselves as to the King's Annuity. Some few Titulars having shifted to sign the first general Submission, upon Pretence that the Bishops and Clergy had not done it: they after the Bishops Example submitted a third separate Submission of all their Rights to other Men's Tithes. Commissioners of the royal Burrows made a fourth Submission, in Name of their several Burghs of all their Rights to Tithes.

That the King might determine the Matter submitted more equally, and with less Expence to the Subject, Warrant was given to the Commission, to ap-  
point

point Subcommissioners in each Presbytrie, to be chosen by the Moderator and Brethren thereof, for trying the real Worth of Land in Stack and Tith, and the just and constant Value of Tithes where the same has been drawn by a Titular or Factor, not being Heritor, for Seven Years of fifteen preceeding the 2 of February 1629. Before whom Actions were pursued at the Instance of Heritors, or of the Procurator Fiscal in case of their Neglect. Appeals from them were discuss'd and their Reports allowed or disallowed only by the Commission. But Heritors having depone upon the Value of their Tithes before the Subcommissioners, were not permit to swear over again upon the same Matter before the Commission. The Procedure of these Subcommissioners (as that of the *judices pedani* among the Romans) was regulated by a formula of Injunctions. Five of them were a Quorum they could not admit Witnesses not worth 100 Pound of free Gear, nor more than ten for each Room. When either Pursuer or Defendor was to make Use of the Tenant or Servant of his adverse Party as a Witness, the Master was bound to procure him in a joint Proof they were a lay most Weight upon the clearest Depositions, without Respect to the Number: and Depositions behove to be subscribed by the plurality of the Subcommissioners, and the Clerk. Citations within the Presbytrie were to be upon ten Days, and without it upon twenty, and if the Party was out of Scotland upon sixty. Such as had Interest to appear before the Subcommissioners, were safe from personal Diligence for eight Days before, and as long after the Diet of their Appearance.

The King after the Light he got from the Proceedings of the Commission, being well and reably advised in the Matter submitted: upon the second of September 1629 pronounced four distinct Decretes arbitral. The Decreet upon the first and general Surrender, assigned a Thousand in Satisfaction of each Hundred Merks of Feudal Duty, or Hundred Merks worth of all other constant Rents of Superiority, not being naked Service of Vassals: deducting of the said Feudal Dutys and other constant Rent the blench Dutys contained in the Infeftments of Erection for which no Acknowledgment was to be paid. Whereas Feudal Dutys in common Commerce give a higher Price than Land, It allowed these Feudal Dutys and other constant Rent to be retained by the Submitters till his Majesty made Payment to them of the said Sums. It determined the Tith to be a fifth Part of the constant Rent, where the same is valued jointly with the Stack, and that where these are set for distinct Dutys, the Heritor should get Decouction of a fifth Part of the true Rent of his Tith, hence called the King's Eagle: and allowed the Tithes when valued, to be bought at nine years Purchase, where the Seller has the heretable Right; and if but a temporary one, the Price to be ruled by the Number of Years to run, or Quality of the Right. Commissioners of Valuation were empowered to give down of the ordinary Price to Heritors having