

having already standing Tithes or other Rights of their own Tithes, according to the Nature and Duration thereof. The Submitters, for making the Tithes of other Lands belonging to them in Favour of his Majesty, with Warrantice and from Deeds done by themselves or their Predecessors whom they represented as Heirs; nor were they to warrant from their own Deeds in Favour of any present Predecessor of the Tithes named by them to the King's Advocate or his Commission Clerk. The Surrenders were not to suffer the least Prejudice by any Action of Warrantice competent against their Authors; they allowing in the first End thereof what they shall receive by Virtue of the Decree Arbitral. Deduction of a Fifth Part of what is proven to be the yearly Value of the Tithes, when the Stock and they are separately set, is allowed for assisting the same to the constant Rent commensurable annis: because the popish Clergy had generally raised their Tithes, that was set in such for a Valued Duty or rental. *Stat. Lib. 2. Tit. 8. §. 14.* Upon the second Surrender made by the Clergy, and the fourth by the Burrows; the King gave his Decree in the same Terms with the former in so far as concerned the Quota of Tithes, without any Mention of a Price in Order to buying. And the second Decree doth further made it unlawful to the Submitters and their Successors in Office, to set Tithes or make any other Disposition of their submitted Tithes except for Payment of the Quota determined in the Decree; which should be transmitted entire in Quantity and Quality to their Successors without any Alteration or Diminution. The Decree upon the third Submission, runs in the same Strain with that pronounced upon the first general Submission, as to the Quantity and Price of the Tithes. The several Clauses in the above mentioned Decrees, concerning Church Superiorities, and the valuing and buying of Tithes, with the relative Acts of Commission were ratified in the Parliament 33 (Act 14 & 17) where K. Charles the first sat in person. The Superiorities of all Church-Lands, were not only declared to belong to the King d. Act. 14. But also were annexed to the Crown; and all prior Rights or Deeds any way prejudicial to his Majesty, as to the Superiorities and Feudal Rights thereof declared null Act. 10. *Ibid.* his Majesty was not only made Superior to the Erection-Lords, but even to all the Vassals of the erected Benefices, who were allowed to hold of the King if they pleased. And by an Act of Exchequer 1 Feb. 1634 all was reckoned Superiority, whereof the Titulars of Erection had not the Consent in their Person before the Erection, nor acquired the same thereafter with Possession preceeding the general Surrender. K. James the sixth and K. Charles the first were carefull after the abolishing of Popery in Scotland, to draw all the ecclesiastick Vassals from under the Power of the Nobility, who had got over them by Erection Charters, and to reduce these Vassals under their own immediate Subjection and Jurisdiction, as the most probable Mean to strengthen the royal Authority.

Authority, and to prevent intestine Troubles and Insurrections: such Vassals being reckoned no fewer than a third Part of the Nation, and so not within a 100000. However it was declared that the King's being Superior to Erection Vassals, should be no Inroad upon the Rights of Superiority competent to Bishops and their Chapters d. Act. 14. Par. 1. Ch. 1. But now Prelacy and a Superiority in the Church above that of Presbyter, being abolished Act. 3. Sept. 1. Par. W. & M. the Superiorities formerly belonging to the said Prelates, or their Chapters or depending Offices, are declared to belong to the King, without any Interposition of another Superior, albeit the Vassal should consent Act. 29. Sept. 2. Par. W. & M.

The Superiorities of Benefices under Patronage, were declared redeemable, by the Sovereign, as the Superiorities of other Church-Lands were by the Act 1633: except 1^o Where the Feud-Farms are a Part of the Ministers' Fees, or whereof he hath been in Possession for ten Years. 2^o Excepting the Superiorities of the Provostries of Glamtown and Bothwell Act. 23. Sept. 2. joint Act 36 Sept. 9. Par. W. & M. But now the Feud-Duties of ecclesiastick Superiorities are dissolved from the Crown to remain with the Lords of Erection and their Heirs, and the Reversion thereof formerly provided to the King discharged Act. 11. Sept. 4. Par. 2.

A. All Grants of the Superiorities of Church-Lands, with all Warrants, Feudal Commissions, Bailiories or Deputations for entering Vassals thereto since the Surrender, are declared null by Exception or Reply Act. 53. Sept. 1. Par. 1. Ch. 2. Therefore a Vassal in Church-Lands being pursued in a Declarator of Non-entry at the Instance of a singular Successor to the Lord of Erection, was allowed to repeat a Declarator by Way of Defence, without Concurrence of the Crown, concluding, that he had Right to hold his Lands of the Sovereign in Virtue of the Annexation of the Superiorities of Church-Lands by the Acts 10 & 14 of the Par. 1633, 9 June 1714 Gubernator of Heriot's Hospital and their Treasurer contra Hepturn of Boniford. Because there could be no Declarator of Non-entry which hath tractum futuri temporis, where it is optional to the Vassal inmedicatio to take his Holding of another Superior. And seeing no Law requires his Majesty's Concurrence in this Case, the Church Vassals may prosecute *ius quaesitum* to them by Law without it, in a Competition with any Subject.

Some Lords of Erection having got Bonds from their Vassals in Church-Lands, to continue their Vassals and not to hold of the King, to secure these Lords it was provided, that any new Right of Superiority of Church-Lands obtained with Consent of the Vassals, should stand good as to the consentors Act. 53 Par. 1. Sept. 1. Ch. 2. In Regard that such a Consent is of the Nature of a Resignation of the Property in Favour of the Superior to be holder of the King. The single lacking of Infeudment from a Titular of Erection, doth not infer such