such a Consent as that the Consentor can not return afterward to be the Kings Vassal. Tis true the Lords of Session once found that it might be inferred from Presumptions, shewing that the Vassal designed to oblige himself to hold of the Lord of Erection, and not of the King 28 July 1669 D. Hamiltoun contra Weir of Blackwood. But Sir George Mckenzie (Observ. on d. Act 53.) is of Opinion that the Benefit to hold of the King so clearly introduced by Law in Favour of Vassals of erected Church Lands, can hardly be taken from them without a clear and express Consent, to hold only of the Lord of Erection and not of the King. And a Vassal was found to have Right to take his Lands holden of the King, albeit the Vassals Authors had taken Charters from and held of the interposed Superior for the Space of 40 Years; which was not found sufficient to oblige him to continue the same. Hence &c. 9 June 1714 Governors of Heriots Hospital contra Hepburn of Beirford. Because the Consent required to establish a Superiors Title is the Vassals express Consent to the Right and Infeftment of Superiority: that is, when a Charter of the Superiority is got from the Crown, the Vassal must consent to it by his Subscription to the Signature and Charter, or by some other writ ten Declaration or Bond under his Hand, or by some such Deed equivalent to his Resignation of the Property to the Crown, which is a Deed of Alienation. But the accepting of Charters from the interposed Superior is only a tacit Deed by Inference and gathering the Intention, which should not work such a legal Effect of a Renunciation of so considerable a Privilege introduced by publick Law. And if the taking of one Charter will not infer this Consent, neither will two or three, they being all of the same Nature. Nor could Prescription take place in this Case, because 1° There must be a Title habile of its Kind to transfer the Property; whereas here there was none other than such as was reprobate by Law, viz. a Disposition of the annexed Property without any previous Dissolution in Parliament, which was declared null Act 53. Parl. 1. Ch. 2. 2° The Subject was not prescriptible, it being res merae facultatis. For the Church Vassals do not lose their Privilege of holding of the Crown, by forbearing to claim it for never so long Time. Nor was it found to exempt the Superiority of Church-Lands from the Annexations 1587 & 1633, that the said Lands were excepted therein, and resigned by the Titular in the King's Hand as perpetuum remanentium, for a great Sum of Money in the Year 1630, for which they were redisponed by Way of Wadset under Reversion to his Majesty, and thereafter by a Contract in the Year 1637 betwixt the King and the Wadsetter on the one Part, and Heriot's Hospital on the other, the said Lands and Superiorities thereof were disponed to the Hospital, upon Payment of the said Sum to the Wadsetter, and of another great Sum as the

the Price of the Reversion to the King eodem die inter eosdem. Because the Act 53. Par. 1661 doth amply rescind and declare void all and whatsoever Rights and Infeftments of the said Superiorities made and granted by his Majesty and his Father in any Time bygone since the Surrender 1627, and only excepts from that Act a Right in Favour of the Earl of Lauderdale, which confirms the Rule and Sanction of the Law in all other Cases not excepted. And it is not to be regarded, what Kind of Conveyances were made by the King in Favour of Titulars, and how by them returned to his Majesty, and new Grants made before the Annexation: but simply it is to be considered, whither this was a Church Superiority. As there is no Difference betwixt the Recent and Abeigny: so the Word Titular comprehends both primary and secondary Titulars, and all Grants of these Superiorities, whither originally from the Crown or by the Interposition of another. But upon an Appeal from the Court of Session to the House of Peers, the Decrees aforesaid (betwixt Heriots Hospital and the L. Beirford) were reversed.

For making the royal Decrees arbitral and Acts of Parliament ratifying the same effectual, a new Commission was named (Act 19. Par. 1633) to value and sell Tithes in the Terms aforesaid, and to validate Parsonage and Vicarage separately, where they are distinct Benefices, with Power to appoint Subcommissioners within Parishes, or Presbytries for Valuation of Tithes; to modifie Stipends to Ministers out of the valued Tithe Duty of their Parishes; to divide unite and annex Parishes; and to perfect the Act of Parliament annexing the Superiorities of Church-Lands to the Crown. Since which Time, other Commissions to the same Purpose have successively been appointed by the Parliament, till the Year 1707 when that Power was rested and lodged in the Lords of Session Act 9 Sess. 4. Par. 2. A. But tho our Law doth now allow the selling of Tithes, many who bought their own Tithes, took from the Titulars long Tacks as well as Dispositions, for the more Security against a popish Revolution.

Tithes injoyed by Bishops during the Periods of their Government of the Church of Scotland, are now, by the abolishing of Prelacy Act 3. Sess. 1. Par. W. & M. at the King's Disposal. The Right of presenting Ministers to vacant Churches being taken from Patrons in the Year 1690 Patrons got in lieu thereof Right to all Tithes of their Benefices not heretably disponed, with the Burden of Tacks and the ordinary Dispositions for Ministers Provisions and Augmentations, even of Maintenance to two Ministers in one Parish if the Commission please; and redeemable by the Heretors at Six Years Purchase after Valuation. But the Minister benefited is not to