

No. 23.

and, in like manner, it will not be supposed, that a consent of the heritors of Falkirk would have been so easily obtained, if the burdens of their own lands had been to receive an increase, on occasion of the intended annexation.

“ The Lords find, that the lands disjoined from the parish of Falkirk, and annexed to Slamannan, by decret 28th November 1724, is only *quoad sacra*, and cannot be subjected in payment of any stipend to the Minister of Slamannan ; and therefore ordain them to be struck out of the rental.”

Act. D. Dalrymple.

Alt. Solicitor Dundas.

Fol. Dic. v. 4. p. 299. Fac. Coll. No. 20. p. 54.

1772. November 25.

Mr. ANDREW WILLIAMSON, Minister, *against* The HERITORS of the Parish of ARNGASK.

No. 24.

Augmentation of stipend refused, in respect of an augmentation by a decree in 1709; but a subsequent decree of locality, not pronounced till 1715, and localising the whole stipend in money, in place of a former locality of victual in part, found no bar to a rectification in that particular—and small addition also made to the former allowance for communion elements.

A decree of augmentation, in the year 1709, gave the Minister of Arngask 900 merks Scots of stipend, and 40 merks for communion elements.

From various causes of delay, the decree of locality was not pronounced till 31st July, 1715, and thereby the whole stipend of 900 merks was localised in money, in place of a locality of 30 $\frac{1}{4}$  bolls of victual *pro tanto*, which had been allocated by a prior decree in 1669, and which decree 1669, in the process of modification 1709, had been found to be the rule of the Minister's payment *pro tanto*.

The present Minister of Arngask having brought a process of augmentation, the heritors objected that the pursuer was already sufficiently provided of a stipend, settled by decree no farther back than the year 1709, at which time, it appears from the decree itself, his predecessor got no less than an addition of 400 merks and that, in such circumstances, the Court is not in use to open decrees of so short endurance.

“ The Lords find the pursuer not barred by the decree 1715 ; but find him entitled to the 900 merks modified by the decree 1709, of which, 30 bolls 1 furlot of oat-meal to be now payable in kind, at the rate of 100 merks per chalder, and modify the communion-elements to £.40 Scots ; and decern and ordain the said stipend and element-money, being 30 bolls and a firlot of oat-meal, and £.473 19s. 2d. Scots, of money for stipend, and £.40, money foresaid, for communion-elements, to be paid to the pursuer, &c.”

A reclaiming petition for the pursuer, which prayed the Court “ to alter the above interlocutor, in so far as it only rectifies the injury which the decree of modification 1709 received in the proceedings in the locality 1715, and to give such augmentation as to the Court shall seem meet,” was refused, without answers.

Act. D. Dalrymple, et Solicitor Dundas.

Alt. D. Græme.

Fol. Dic. v. 4. p. 300. Fac. Coll. No. 33. p. 87.