

Ministers pay no Tithes for their Glebes, whether consisting of arable Land Act 62. Par. 5. J. 6. Or of 16 Soulds Graff Act 10 Par. 23. J. 6. which Privilege is competent not only to Glebes legally designed and established by Authority of Law, but also to Glebes voluntarily mortgaged to Chappels where Divine Service is usually performed 9 June 1676 Burnet contra Jib. By the Law of England, a ~~Parson~~ Vicar is only free from paying Tithes for his glebe to the Parson impropriate so long as he keeps it in his own Hands, and a Vicar gets not the small Tithes arising upon the glebe Lands of the Parson, while they are in his own Hands: but a Purchaser or Tenant of glebe Land, has no such Exemption ii Rep. 17. 1. Cro. 479. 578. 579. In Scotland, Ministers Glebes are tith-free even after they are out of their Possession, and passed into Laymen's Hands: unless it could be shewed, that the Laid Possessor paid Tithes within 40 Years for the glebe come in his Hand. M'Kenzie Observ. on Act 62. Par. 5. J. 6.

2. Privilege of Exemption from Payment of Tithes is not to be extended to novalia afterwards emergent l. 2. §. 1. de decim. in 6. Rebuff. Jid. n. 3. l. 1. variv. Jid. n. 13. As being a Singularity introduced against the Canons odious in it self, and prejudicial to another and consequently to be taken in the most restrictive Sense, Inq. l. 2. §. 16. ff. ne quid in loc. pub. junct. reg. dia 15. de reg. jur. in 6.

Professors of allodial Land, are not exempted from paying Tithes to the Church Les Loix Civiles & Livr. prelim. Tit. 3. Sect. 2. §. in fin.

Tit. 4.

Concerning the Fate of and Alterations made in ecclesiastical Property, after the abolishing of Popery in Scotland.

After the Reformation many popish Benefices were conferred by H. James the Sixth upon Laymen, who had been most active in bringing it about. These were called Commendators, who not only enjoyed all the profits and ~~advantages~~ ^{advantages} of both Spirituality and Temporality thereof; but also vote and voted in Parliament as Bishops Abbots and Priors according to the Dignity of the Benefice. So the Lord Duns, whose Successor is now Earl of Murray, was Commendator of Incheilomy Mr Edward Bruce the Earl of Elgine's Father was Commendator of Kinloch, Mr George Buchanan our Historian Commendator of Grof-regal, Mr William Melvil Commendator of Fingland and Kilwinning &c. But in Regard these as simple Usufructuaries could not transmit to their Heirs Benefices whereof they were Titular, they got them erected into Lordships and Baronies. ^{Benefices not so far as conferred by the Parliament upon Royal Burgesses, were not so erected.} Out of some collegiate Churches, Patronages were erected. The first Fruits, and fifth penny of Benefices called Annats, were allotted for establishing a Workhouse to the King Act 137. Par. 8. J. 6. Which was afterwards paid out of the Exchequer. But

But Ministers provided to Benefices under Prociacies were declared thereafter free from Payment of these first Fruits and fifth penny Act 26 Par. 11. J. 6. And it is now long since any such were exacted in Scotland. In England the Kings Pretence to the first Fruits was always kept up from the 26 Year of Henry the eighth's Reign, till 2. Ann. out of her princely compassion upon the mean Condition of the inferior and poorer Sort of her English Clergy, was graciously pleased to pass from it in their Favour.

A Fund of all popish Benefices was appointed in the first Place for maintaining the orthodox Ministers, and the Overplus to supply the Defect of their own Revenue Act 10. Par. 1. J. 6.

For supporting the royal Dignity without taxing the Subject, and to manage future Kings not to return to Popery; in the Year 1587 the temporality of Benefices with many Exceptions, was annexed to the Crown Act 29. Par. 11. J. 6. Which is called the general Annexation. The Reasons of it were these. 1. Most of the popish Mortifications were deceitfully drawn from Doctors imposed on by Ways and Means of Priest-Craft, and consequently null l. 53. ff. de reg. jur. l. 15. ff. de jurid. And former Kings having impoverish'd themselves, by unjustly and unprofitably mortgaging a great Part of their Revenue, to the secular and regular Clergy, the same should return to the Crown. 2. It is the publick Interest, that none make bad Use of their Property §. ult. de his qui sui vel alien. jur. These Benefices had been originally destined to maintain a superstitious and idolatrous Worship, such as making for the living and the dead, Offices to charm Souls out of the Prison of Purgatory; Invocation of Saints, and the keeping up Lights Night and Day for their Honour; as appears from the Tenor of the Foundation Charters, that commonly bear pro peccatis elandis, pro anima, pro redemptione anime, in re medium anime predecessorum, pro salute, pro luminaribus conservandis &c. Now that which belongs to a false Religion, comes under Confiscation l. 4. §. 1. et seq. C. de heret. & manich. And what is left for an unlawfull Use, may by the orthodox Magistrate, be converted to some honest and necessary Use of the Commonwealth l. 1. ff. de admin. ros. ad civitipertin. l. 16. ff. de usu & usufruct. leg. Thus did the Princes of Germany at the Reformation, and defended their Practice by many Reasons extant at large in Heidan's Commentary Lib. 11. c. 13. 3. Quia nullius sunt, ea sunt domini regis, and these were such: for the old Proprietors had no Right to them, after they were once disposed; nor the religious Societies after their Extinction and Suppression.

All Rights of Laid Patronages are expressly excepted from this Annexation; that is, such lay Patronages as were lawfully constituted before the Reformation; and not these the King had Right to as come in Place of the Pope, and disposed to Laid, which are still accounted as they were originally ecclesiastical Patronages. Provestries and Prebendries of collegiate Churches, Altarages and Chaplainries, having been founded and endowed by Noblemen and others for their own Ease and spiritual Advantage: the Patrons of such Benefices were thought to have

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