

and he who had the power and influence to obtain a discharge and remission could as easily have got the gift of this fine ; so he is all one with a donatar : and it was plain concussion to give the discharge and remission with the one hand, and receive the £500 sterling with the other, or threaten him with executing the full decret. And the case of Welsh differs ; for he had an express contract, whereby they allowed him 1900 merks if he should procure a remission, and that as a remuneration of his pains, which was but like a factor's salary ; which is not so here.

Some of the Lords thought Blair's case not comprehended in the Acts of Parliament, especially considering the great probability that the money went to Melfort's behoof. But the plurality agreed, That trial should be taken, before answer, who received the money ; and, if Blair got it, then that he may condescend and give what evidences he can to whose use the money went ; but did not require a strict probation of the same.

On a bill given in by Blair Drummond, and answers by the Laird of Riddle, the Lords, 29th June 1699, found, This case fell not within the compass of the Act of Parliament ; and therefore assoiyled.

*Vol. II. Page 46.*

1699. *February 24.* PATRICK JACKSON *against* The late ARCHBISHOP of ST ANDREWS and BISHOP of EDINBURGH.

PATRICK Jackson, as collector of the annuity for the second minister of the Canongate's stipend, pursues the late Archbishop of St Andrews, and Bishop of Edinburgh, for the annuity of the houses possessed by them these four years by-gone, extending to £6 sterling, conform to an Act of Parliament imposing it, in 1663.

ALLEGED,---These general acts never comprehend church-men, and, *quoad* them, are wholly in desuetude : Likeas, by *cap.* 1. of the Statutes of King Robert I, the clergy are exemed from all burdens ; which has been ratified by many Acts of Parliament both before and since the Reformation. *2do.* By the acts of the Town-council of Edinburgh, ministers have been declared free of annuities.

ANSWERED,---The Bishops were sitting in the Parliament in 1663, which imposed this annuity, and did not exeme themselves nor ministers from it ; and any acts which have been made was only *ex gratia* to poor indigent ministers, and cannot be extended to Bishops. Neither can the Town-council of Edinburgh privilege any to the prejudice of the ministers of the Canongate.

The Lords repelled the defence, and found them liable ; but, in regard it was alleged they were overstented, they were reponed to their oaths what was their true rent.

In Joseph's time we find the Egyptian priests their lands exemed from any tax to the King. And the Jewish priests, in Ezra and Nehemiah's time, were declared free of all tributes by Artaxerxes's letter.

*Vol. II. Page 47.*