

by the pursuer does not meet the case ; because the question there was of the titular's right to the teinds, which does not prescribe in less than 40 years as to the duties in time coming, but only for bygones, which prescribe against titulars as well as ministers or tacksman. THE LORDS repelled the defence, and found that the act of Parliament did only extend to ministers' stipends or teinds due to the inferior clergy, but could not be extended to teind-duties due to bishops or other titulars.

No 255.

*Sir P. Home, MS. v. I. No 442.*

1753. July 3.

WILLIAM GLOUG *against* JOHN MACINTOSH.

MACINTOSH being pursued by Gloug for payment of certain vacant stipends, *objected* prescription by act 9th Sess. 1. Parl. 2. Cha. II.

No 256.  
Vacant stipends fall under the quinquennial prescription.

*Answered* for the pursuer ; The act is a correcorey law ; it mentions ' ministers stipends' only, and may not be extended to ' vacant stipends.' The stipends of ministers are an alimentary provision, and, by reason of their special privileges, may be speedily collected ; they are therefore subjected to a short prescription. Vacant stipends resemble them in name only ; they are not of an alimentary nature, have not the same privileges, nor are comprehended under the words of the statute ; to them therefore the quinquennial prescription does not extend.

*Pleaded* for the defender ; The expression ' vacant stipends' is indeed improper ; but our statutes are not framed with critical accuracy ; and, since in act 52d Sess. 1. Parl. 1. Cha. II. ' vacant stipends' are termed ' the stipends of vacant kirks,' they may well be comprehended under the denomination of ' the stipends of ministers.' The quinquennial prescription was introduced for the benefit of the heritors liable in payment of stipends ; vacant stipends, as well as ministers' stipends, fall under the reason of the law ; and the former ought to be subjected to the prescription as well as the latter.

" THE LORDS sustained the defence of prescription."

Reporter, *Lord Minto.*Act. *J. Craigie.*Alt. *Macintosh.*

D.

*Fol. Dic. v. 4. p. 104. Fac. Col. No 77. p. 115.*

1799. February 20.

Lady CHRISTIAN GRAHAM and her COMMISSIONER and FACTOR *against*  
CATHARINE PATE and Others.

THE Marquis of Annandale, patron and titular of the parish of Moffat, having become insane, the Earl of Hopetoun was in 1758 appointed his tutor-in-law.

No 257.  
The right of a patron, who