

ent. There, an unfreeman was in effect the master ; here a freeman is master : and, as he cannot borrow money, he associates an unfreeman for profit and loss.

AUCHINLECK. The rational interpretation of the seal of cause is, that no conventions shall be made that are prejudicial to the incorporation ; but here the convention is not prejudicial to the incorporation, however it may affect the rich members who may carry on the business upon their own stocks, without foreign assistance.

HAILES. I do not think that King James VI., by his charter 1598, could authorise the Magistrates to try perjury without a jury. The seal of cause must be the rule, not the oath ; if the oath goes farther than the seal of cause, no action can lie upon it. I doubt whether the oath can be administered at all : we complain of the bad consequences arising from the multiplicity of oaths established by statute ; for them the land mourns ; and shall we authorise oaths conceived in terms vague and obscure, and imposed without authority of statute.

PRESIDENT. Such corporation oaths are established by custom : they have some sanction from a late judgment, *Douglas against The Magistrates of Musselburgh*. In the case of *Glasgow*, an unfreeman carried on the business under the name of a freeman ; but here the freeman acts in his own name, and takes the benefit of an unfreeman's money. Unfreeman, in the seal of cause, and in the corporation oath, is an unfreeman of the same trade.

1766. *July*. MR JAMES REID, Minister of the Gospel at Beith, *against* The HERITORS of that Parish.

STIPEND.

Minimum of a Stipend.

THE parish of Beith is between two and three miles long, and as many broad : the minister's house and church are central : the number of persons in the parish is 800, so that there may be about 300 examinable. The parish is situated in Fife, upon the high-road, at about equal distance from the North Ferry and Kinross. In 1650, the Commissioners for Plantation of Kirks modified to the minister of Beith the following stipend :—3 chalders oats, 1 chalders bear, 500 merks in money, and 40 merks for communion elements. There is a sum mortified to the minister of this parish, being 1400 merks, whereof he ought to receive the interest.

In 1764, Mr Reid pursued the heritors for an augmentation.

On the 5th March 1766, "The Lords Commissioners modified the constant stipend to be one chalders of bear, and L.633 : 6 : 8 Scots for stipend, with L.40 money, foresaid, for communion elements, by and attour the interest of 1400 merks mortified to the minister of this parish."

On the 4th July 1766, the Lords, after advising a reclaiming petition for the minister, and answers for the heritors, "adhered."

Act. D. Dalrymple. *Alt.* A. Rolland.

OPINIONS.

COALSTON. I hold that the *minimum* established by law, is eight chalders, or an equivalent in money; so that, in places where the grain is worth L.100 Scots per chalder, as in the neighbourhood of Beith, the minister must have eight chalders, or L.800 Scots; and as this minister has not L.800 Scots, he has not the *minimum*.

AUCHINLECK. This cannot be the construction of the law; for, had L.800 been the *minimum*, no minister would ever have acquiesced in the *minimum* as generally understood of 800 merks.

1766. July 11. WILLIAM BRACK, only Son of William Brack, Portioner of Smallholme, *against* ISOBEL HUTCHINSON and WILLIAM PRINGLE in Easterhead, her Husband.

DEBTOR AND CREDITOR.

A debt being due by a Minor, (who had succeeded to an estate under a destination, burdened with that debt,) and his father, as his administrator-in-law, offering to pay the debt; *found*, That the Father was entitled to demand an assignation from the Creditor.

On the 30th December 1741, William Hutchinson executed a settlement of certain lands in Smallholme, in favour of himself and his wife, Isobel Lamb, in liferent, and to the heirs-male of his body in fee; whom failing, to his eldest daughter, Agnes Hutchinson, and the heirs-male of her body, and the heirs-male of that heir-male's body; whom failing, to certain other substitutes. By this disposition it was provided, that, immediately after the decease of William Hutchinson and his wife, the heirs-male of his body then succeeding, if that should happen, should be personally bound for, and the fee of the lands affected with payment of 500 merks to each of his four daughters: and in case there should be no heir-male of his body, then the substitute on whom the estate should devolve was also declared personally liable, and the fee of the lands burdened with 500 merks to each of the four daughters, excepting her who, or the heirs of her body, should succeed. By the death of William Hutchinson, without heirs-male of his body, and by the death of Isobel his wife, and Agnes his eldest daughter, the succession devolved upon William Brack, the eldest son of Agnes, and he was served heir of provision to his grandfather. Isobel, the second daughter of William Hutchinson, insisted in an action before the Sheriff of Roxburghshire, concluding against William Brack