



ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

C A P. CXXXVIII.

An Act for defining and regulating the Powers of the Commission of Teinds, in augmenting and modifying the Stipends of the Clergy of *Scotland*.

[30th June 1808.]

WHEREAS by an Act of the Parliament of *Scotland*, in the Year One thousand seven hundred and seven, intituled, *Act anent* Scotch Act 1707. *Plantation of Kirks and Valuation of Teinds*, Her Majesty *Queen Anne* and the Estates of Parliament, empowered, authorized, and appointed the Lords of Council and Session to judge, cognosce, and determine in all Affairs and Causes which, by the Laws and Acts of the Parliament of *Scotland* had been referred, and did pertain and belong to the Jurisdiction and Cognizance of Commissioners formerly appointed for that Effect, as fully and freely in all Respects as the said Lords did or might do in other Civil Causes; and certain Powers therein mentioned were particularly granted by the said Act; and it was thereby declared that the said Act and Commission should be subject nevertheless to such Regulations and Alterations as should be made by the Parliament of *Great Britain*: And whereas it is expedient that the Powers of the said Lords

Stipends modified before the passing of this Act, not to be again modified for 15 Years.

of Council and Session as Commissioners aforesaid, should in some Respects be defined and regulated; may it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That, from and after the passing of this Act, it shall not be competent to the said Lords of Council and Session as Commissioners aforesaid, except as after specified, to augment or modify any Stipend which shall have been augmented or modified prior to the passing of this Act, until the Expiration of Fifteen Years from and after the Date of the last final Decree of Modification of such Stipend.

Stipends modified after the passing of this Act, not to be again modified for 20 Years.

II. And be it enacted, That no Stipend which shall be augmented or modified by a Decree after the passing of this Act, shall be again augmented or modified until the Expiration of Twenty Years from and after the Date of such Decree or Modification thereof; nor shall any such Stipend be augmented or modified at any future Period until the Expiration of Twenty Years from and after the Date of the last Decree of Modification thereof respectively.

Processes depending prior to March 12, 1808 may be suspended or prosecuted by the Minister.

III. Provided always, and be it enacted, That in all Processes of Augmentation or Modification, in which the Days of Compearance had elapsed, and which shall have been called in Court prior to the Twelfth Day of *March* One thousand eight hundred and eight, and which shall continue to depend before the said Lords of Council and Session as Commissioners aforesaid, at or after the passing of this Act, it shall be competent to the Pursuer either to suspend the same until Fifteen Years shall have elapsed from the Date of the last preceding Decree of Modification, or to prosecute the same to a Conclusion forthwith; and that it shall be competent to the said Lords of Council and Session as Commissioners aforesaid, either to grant or to refuse to grant an Augmentation in any such Cases, or to pronounce or to refuse to pronounce a Decree of Modification therein: Provided always, that if the Stipend in any such depending Case shall be augmented or modified by a Decree after the passing of this Act, the same shall not be again augmented or modified until the Expiration of Twenty Years from and after the Date of such Decree of Modification thereof; nor shall any such Stipend be augmented or modified at any future Period, until the Expiration of Twenty Years from and after the Date of the last Decree of Modification thereof respectively.

Act not to extend to any Cases depending, either on Petition, or on Appeal.

IV. Provided further, and be it enacted, That this Act shall not be deemed or taken to extend to any Case where a Decree of Modification having been pronounced by the said Lords of Council and Session as Commissioners aforesaid, prior to the passing of this Act, the Subject Matter whereof shall be depending, either upon Petition to the said Commissioners, or upon Appeal to the House of Lords at the Time of the passing thereof, or where it may be competent to present such Petition or such Appeal against any such Decree of Modification, but every such Case may be proceeded in and brought to a Conclusion; and a Petition or Petitions may be presented to the said Commissioners therein, or an

Appeal may be taken to the House of Lords as heretofore, and the same may be prosecuted with regard to said Petition or Appeal in the same Manner as if this Act had not been made.

V. Provided always, and be it enacted, That in such Cases afore said, where there shall be a final Decree of Modification, no such Stipend shall be again augmented or modified until the Expiration of Fifteen Years from and after the Date of the final Decree of Modification thereof, pronounced by the said Lords of Council and Session as Commissioners afore said. Where there is a final Decree no Stipend shall be modified for 15 Years,

VI. Provided likewise, and be it enacted, That where such Stipend shall, at or after the Expiration of the said Fifteen Years, be again augmented or modified by a Decree, after the passing of this Act, it shall not be again augmented or modified until the Expiration of Twenty Years from and after the Date of such Decree of Modification thereof, nor shall any such Stipend be augmented or modified, at any future Period, until the Expiration of Twenty Years from and after the Date of the last Decree of Modification thereof respectively. and after the Expiration of that Period no Modification shall take place till the End of 20 Years.

VII. Provided further, and be it enacted, That in all Cases whatsoever where an Augmentation or Modification of Stipend shall have been or shall be applied for, and which shall be judged of, or a Decision pronounced therein, after the passing of this Act, by the said Lords of Council and Session as Commissioners afore said, it shall and may be competent to them to refuse to augment or modify any Stipend in any such Case, either on account of there being no legal Fund of Augmentation, or on account of the Circumstances of the Case; and it shall and may be competent for any Party or Parties to propound all relevant Objections in every Case whatsoever where an Augmentation or Modification shall be applied for, and which Objections shall be determined by the said Lords of Council and Session as Commissioners afore said as heretofore. Commissioners of Teinds may refuse to augment or modify Stipends.

VIII. And be it further enacted, That every Stipend which shall be augmented after the passing of this Act shall be wholly modified in Grain or Victual, even although Part of the Whole thereof shall have been previously modified in Money, or although Part of the Whole of the Teinds shall be Money Teind, unless where it shall appear necessary, on account of the State of the Teinds, or on Account of the Interest of the Benefice, or on account of the Nature of the Articles other than Grain or Victual which have been in use to be delivered in Kind as Stipend, that a Part of the said Stipend should be modified not in Grain or Victual but in Money, or should be modified in such other Articles as have been in use, to be delivered in Kind as Stipend. Stipends which shall be augmented shall be wholly modified in Grain or Victual unless where it shall appear necessary.

IX. And be it further enacted, That in the Case of every Decree of Modification which shall be pronounced after the passing of this Act as afore said, it shall and may be competent to the said Lords of Council and Session as Commissioners afore said, and they are hereby authorized and required to convert the said Money Stipend or Money Teind into Grain or Money Stipends to be converted into Grain or Victual, except as afore said, according to the

Fiar Prices of the County on Average of Seven Years.

or Victual, save and except as aforesaid; and to make such Conversion into Grain or Victual according to the Fiar Prices of the Kind or Description of Grain or Victual into which the same shall be converted, as appearing from the Fiares of the County or Stewartry struck for each Year, in virtue of Authority from the Sheriff or Stewart in which the Parish shall be situated, upon an Average of such Fiar Prices for Seven Years preceding the Date of the Decreet of Modification, and exclusive of that Year in which such Decreet of Modification shall bear Date.

Where there are no Fiares applicable in the County where the Parish is situate, the Fiar Prices may be taken from Two or more adjoining Counties.

X. Provided always, and be it enacted, That where such Parish shall not be altogether situated in the same County or Stewartry, or where no Fiares applicable to the Kind or Description of Grain modified shall be struck in the County or Stewartry wherein such Parish is situated, it shall be competent for the said Lords of Council and Session as Commissioners aforesaid, to convert the said Money into Grain or Victual, according to the Average of the aforesaid Seven Years of the Fiar Prices of Two or more of the adjoining Counties, or of such Stewartry, County or Counties, as they shall deem most suitable in the Circumstances of the Case.

Ministers not to receive Stipend in Kind, but to receive it in Money according to the Fiar Prices of the Grain into which the same shall have been modified.

XI. And be it further enacted, That it shall not be competent for the Lords of Council and Session as Commissioners aforesaid, where a Stipend shall, after the passing of this Act, be modified in Grain or Victual, in whole or in part, to authorize the Minister to receive the same or any Part thereof in Kind, but that it shall only be competent for them to decree the Value thereof to be paid, or for him to receive the same in Money, according to the Fiar Prices of the Kind or Description of Grain or Victual into which the same shall have been modified, as appearing from the annual Fiares of the County or Stewartry in which the Parish, the Stipend of which shall have been so modified, shall be situated, struck in virtue of Authority from the Sheriff or Stewart, for that Crop or Year for which such Stipend, modified in Grain or Victual, shall be payable.

Where the Parish shall not be altogether situated in one County Two or more Counties may be fixed upon for taking the Fiar Prices.

XII. Provided always, and be it enacted, That where any such Parish shall not be altogether situated in one and the same County or Stewartry, or where no annual Fiares applicable to the Kind or Description of Grain or Victual modified, shall be struck in the County or Stewartry wherein such Parish is situated, it shall be competent for the said Lords of Council and Session, as Commissioners aforesaid, to fix upon and specify Two or more of the adjoining Counties, or such Stewartry, County or Counties, as they shall deem most suitable in the Circumstances of the Case, according to the annual Fiar Prices of which Stewartry, County or Counties, they shall decree the Value thereof to be paid in Money.

Conversion to be made according to the highest Fiar Price.

XIII. Provided always, and be it enacted, That where there shall have been or shall be different Rates of Annual Fiar Prices for any County or Stewartry, District or Place, struck in virtue of Authority from the Sheriff or Stewart, the said Conversion from Money into Grain or Victual, and from Grain or Victual into Money, in all of the Cases aforesaid, shall be made according to the highest Annual Fiar Prices struck in virtue of Authority from the Sheriff or Stewart for the said County, Stewartry, District, or Place.

XIV. Pro-

XIV. Provided always, and be it enacted, That the Right of any Heritor to surrender his valued Teind in place of subjeeting his Lands, to the Amount of the Stipend localled upon them, shall not be taken away by what is herein enacted.

Right of sur-
rendering
Tiends not to
be taken
away.

XV. And be it further enacted, That from and after the passing of this Act, the said Lords of Council and Session as Commissioners aforesaid, Nine being a Quorum, instead of meeting in the Afternoon of each *Wednesday* as heretofore, shall meet at Ten of the Clock in the Forenoon, upon the Second *Wednesday* which shall happen after the Court of Session shall have met for the Dispatch of Business in the Months of *November* and *May* in every Year respectively; and at the same Hour once a Fortnight on *Wednesday* during the Sitting of the Court of Session, and at such other Times, and on such other Days, in the Months of *December*, *January*, and *March*, not being any of the Days upon which the Court of Session meet for the Dispatch of the Business of the said Court, as the said Lords of Council and Session as Commissioners aforesaid shall find necessary or proper for executing the Powers committed to them by this and the said in part recited Act.

Time of
Meeting of
Commission-
ers of Tiends.

XVI. And be it enacted, That it shall be lawful for the said Lords of Council and Session as Commissioners aforesaid, and they are hereby empowered and required to establish Rules and Regulations for abridging the Forms and Expence of Citation of Heritors and others, and for ascertaining the Facts and Circumstances of the Case, and to establish Regulations for executing the Business committed to them by the said in part recited Act of the Parliament of *Scotland*, and by the present Act, with as much Expedition and as little Expence as possible.

Regulations
may be made
for abridging
the Forms
and Expence
of Citation,
and for expe-
diting the
Business.

XVII. And, in order to guard against Collusion, and also in order that no Processes of Augmentation or for Modification of Stipends shall be raised on the Ground of alledged Collusion, be it further enacted, That every Minister insisting in the Process of Augmentation shall, after the passing of this Act, besides citing the Heritors, also cite the Moderator and Clerk of the Presbytery of the Bounds, and furnish them with a Statement of the Amount of his present Stipend, and the Addition to the Stipend which he means to crave, in order that the Presbytery, if they shall judge it proper, may appear as Parties to the Process; and, in the Event of the Presbytery entering no Appearance, the Minister shall forthwith transmit to the Moderator or Clerk of the Presbytery a certified Copy of the Interlocutory pronounced by the Court; and it shall be competent to the Presbytery, within Five Months after such Interlocutor is pronounced, to enter an Appearance, and to shew, if they shall see Cause, that the Decree of Modification pronounced is collusive and prejudicial to the Benefice: Provided, that if the Presbytery shall enter an Appearance in such Process, it shall be competent to the Court to subject the Minister insisting in such Process, in the Whole or any Part of the Expences of Process incurred by the Presbytery.

In Cases of
Augmentation
Moderator
and Clerk of
the Presby-
tery to be
summoned,
and furnished
with State-
ment of pre-
sent Stipend,
and the Ad-
dition intend-
ed to be
craved, &c.

Powers of re-
cited Act to
continue in
force, except
when hereby
altered.

XVIII. And be it further enacted, That all the Powers given and granted by the said in part recited Act to the Commissioners thereby appointed, shall remain and continue in force, and receive such and the like Effect as they do at present, excepting in so far as they are altered or repealed by this Act.

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