

1808.

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judgments in the Court below, and the difficulty of the case itself, I cannot advise your Lordships to give costs."

On his Lordship's motion the judgment was affirmed.

It was, therefore,

Ordered and adjudged that the appeal be dismissed, and that the interlocutors complained of be, and the same are hereby affirmed.

For the Appellant, *Wm. Adam, Thos. Thomson, F. Horner.*

For the Respondent, *A. Colquhoun, Sir Sam. Romilly.*

NOTE.—Unreported in the Court of Session.

ARCHIBALD, DUKE OF HAMILTON & BRANDON, *Appellant* ;
Rev. JOHN SCOTT, Minister of the Parish of }
Avondale, } *Respondent.*

House of Lords, 30th May 1808.

AUGMENTATION OF STIPEND—JURISDICTION OF COURT OF TEINDS.—

Held that the minister was entitled to a second augmentation of stipend ; and the Court, as a Commission of Teinds, had power to grant such.

This case involves precisely the same question of law raised and decided in the Prestonkirk case, p. 210.

The facts here were, That the respondent obtained a decree of augmentation of his stipend in July 1786, whereby the stipend, computing meal and barley, at the increase but still moderate rate, of £1 per boll, was brought up to £151.

In 1804 he brought a second process of augmentation. Whereupon the appellant stated the same objections to the want of power in the Court, as a Commission of Teinds, to grant such augmentation, precisely as argued in the Prestonkirk case.

Feb. 26, 1806. The Court pronounced this decree : " Having advised
" the scheme of the rental, and prepared state, and being sa-
" tisfied therewith, and with the hail steps of procedure in
" this process, well and ripely advised, they modify, decern,

“ and ordain the constant stipend and provision of the kirk of
 “ Avondale, to have been, for the crop and year of God
 “ 1803 yearly, since syne and in time coming, six chalders
 “ meal, four chalders of barley, payable in money, accord-
 “ ing to the highest fiar prices of the county, and £50 ster-
 “ ling money for stipend, with £8. 6s. 8d. money foresaid,
 “ including therein £5 sterling mortified by Anne, Duchess
 “ of Hamilton, for furnishing the communion elements; and
 “ decern and ordain the same to be yearly paid to the pur-
 “ suer, and his successors in office, ministers serving the cure
 “ of the said kirk and parish, by the titulars and tacksmen
 “ of the teinds, heritors and possessors of the lands and
 “ others, intromitters with the rents and teinds of the said
 “ parish,” &c. By this decree the total stipend was made
 to amount to £258 per annum, exclusive of manse and
 glebe.

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Besides, pending these proceedings, a locality of the sti-
 pend was going on ever since 1787, in which, of this date, Feb. 27, 1805.
 the minister obtained an interim decree.

The appellant brought a suspension of the above decree
 of augmentation, which, after full consideration, the Court
 refused.

July 2, 1806.

Against this interlocutor the present appeal was brought.
 While a cross appeal was also brought by the respondent
 against the rule of augmentation allowed by the Court in
 the *second* decree of augmentation.

After hearing counsel deliver the same argument as in the
 Prestonkirk case,

It was ordered and adjudged that the appeal be dismiss-
 ed, and that the interlocutors complained of be, and the
 same are hereby affirmed.

For Appellant, *A. Colquhoun, Wm. Adam.*

For Respondent, *Wm. Alexander, Sir Sam. Romilly.*

NOTE.—Unreported in the Court of Session.