Church within this Nation, agreeable to the word of God, and most conducive to the advancement of true piety and Godliness, and the establishing of peace and tranquillity within this realm;" do not pretend to prescribe a Confession of Faith, or a form of church-government, to be submitted to by the church, but, after reading and approving of the Westminster Confession of Faith, which the church had adopted in 1647, and had continued since to maintain, ratify and establish this Confession, "as the public and avowed Confession of this Church." They also establish, ratify and confirm the Presbyterian church-government and Discipline, "allowing and declaring, that the church-government, be established in the hands of, and exercised by these Presbyterian ministers, who were outed since the first of January 1661, for nonconformity to Prelacy, or not complying with the courses of the times: and are now restored by the late Act of Parliament, and such Ministers and Elders only as they have admitted or received, *or shall hereafter admit, or receive:* and also, that all the said Presbyterian ministers have, and shall have right to the maintenance, rights, and other privileges, by law provided to the ministers of Christ's Church within this kingdom, as they are or shall be legally admitted to particular churches." Even the Act which restored patronage in 1712, did not trench upon the freedom of the church: although it curtailed that extent of privilege which had been conferred upon her in the Revolution Settlement, and had been guaranteed by the Act of Security. She was free to insist upon such qualifications as she deemed requisite for the ministry and to judge for herself as to the possession of these requisite qualifications in the case of every individual whom she would settle as minister of a parish. Patronage restricted the enjoyment of the stipend to those ministers, not merely who were inducted by the church, but who also had a presentation from the legal patron. The law of patronage restricted the benefit of the endowment; but to whatever extent the endowment might or might not be enjoyed, the Established Church was, in those days, the *Free* Church of Scotland.

At the time of the Secession, and downwards till the recent decision in the well known Auchterarder case, the recognised law, even in reference to the operation of patronage, was, that while the presentation was that which secured to the presentee, *upon his being settled*, a right to the stipend, it gave him no other right; and that while the civil courts, the proper judges in civil matters, had a right to consider the proceedings of presbyteries in the settlement of ministers, so far as to be able to decide who had a title to the stipend, they had no further jurisdiction in the case. The right of Call belonged to the Church. Her courts could not be interfered with in the moderation of a Call. It was admitted that they had a right to exercise their own judgments and to satisfy themselves as to what they would sustain as a Call; so that, where ministers were intruded upon an unwilling people, it was not because the law of patronage rendered it necessary, but because the Moderates would have it so. Various cases occurred where these points were tried, and where the law was understood to be fully interpreted and applied. For instance, in a case respecting the parish of Dunse, which occurred in 1749, the patron, while insisting upon his civil rights before the civil court, admits that the Presbytery, if they choose, were entitled to refuse to try the presentee at all. He says, "If they please they may, without giving him any trial, settle another, but then that other will have no right to the stipend"—When, in the same case, application was made to the Court of Session to discharge the Presbytery from proceeding to the moderation of a Call at large (that is, a Call in which the people were not restricted to the presentee, but might call any one they pleased), and to restrain them from settling any other man than the presentee; the Court would not meddle in the matter, "because that was interfering with the power of ordination, or the internal policy of the church, with which the Lords thought they had nothing to do." Lord Kames, accordingly, in his Law Tracts, treating of the jurisdiction of "Courts," says of the Ecclesiastical Courts, "The person authorised by their sentence, even in opposition to the presentee, is, *de facto*, minister of the parish, and as such is entitled to perform every ministerial function. One would imagine that this should entitle him to the benefice or stipend, for the person invested in any office is, of course, entitled to the emoluments. And yet the Court of Session, without pretending to deprive the minister of his office, will bar him from the stipend, if the ecclesiastical court have proceeded illegally [that is,