

The Minister, as titular, may pursue a valuation of the teinds of the parish as well as the particular heritors. See APPENDIX.

No. 140.

*Fol. Dic. v. 4. p. 356, 357.*

1744. February 22. SIR ROBERT GORDON against DUNBAR of Newtoun.

Where teinds of certain lands have been drawn *ipsa corpora* by the titular, and mixed so with the teinds of other lands as not to admit a proof of the real quantity or annual value, the rule for ascertaining the value of these teinds, in a process of valuation at the instance of the heritors of the land, is, that the teinds be valued at the same rate as where a joint-duty is paid for stock and teind; that is, that they be valued at the fourth part of the rent paid to the pursuer for the stock; which comes to the same with the fifth part of the rent where that rent is paid both for stock and teind.

No. 141.

The rule for valuation where the teinds drawn *ipsa corpora* are mixed with the teinds of other lands.

*Rem. Dec. v. 2. No. 53. p. 82.*

1744. December 12.

DUKE OF ROXBURGH against SCOTT of Horslie Hill.

In the year 1685, the Minister of the united parishes of Morbottle and Mow, brought a process of modification against the titular and the heritors, concluding in the same libel a valuation of the teinds of the parish. With regard to this conclusion the libel runs thus, "That though by the good and worthy course intended by his Majesty, the teinds through the several parishes of this kingdom were appointed to be valued, yet the teinds of the parishes of Morbottle and Mow were not valued, whereby his Majesty was prejudiced of his annuity, and the pursuer frustrated of the benefit of augmentation; for remedy whereof, necessary it is that the teinds should be valued." Both articles of the process went on, a rental was given in by the Minister, and fixed by a reference to the oaths of the heritors who were held as confessed. The teinds were valued, and a separate decret of valuation was extracted; the decerniture, of which is in the following words; "and the said Lords decern and ordain the sums of money and quantities of victual above specified, to stand, continue, and endure, and to be repute and holden the just true and constant yearly worth and avail of the teinds, parsonage, and vicarage of the lands particularly above written *communibus annis*, in all time coming."

No. 142.

The Minister is one of those who by law can pursue a process of valuation.

It is not *per se* a good objection to a decret of valuation, that the heritor was not made a party to it.

As to the land of Mow, the heritor was not cited, but only his mother the life-rentrix. But the heritor acquiesced in the decree by making payment upon it.

In the year 1744, a process of modification and locality was brought at the instance of the Minister of the said united parishes against the heritors. For Scott of Horsliehill, one of the heritors, it was pleaded, that the teinds of his land were