

No. 38. in money. The Minister made the same answer as in the case of Lamington ; and further observed, that the valuation had been recently obtained, and the victual-rent improperly turned into money, at a very low conversion, for which reason he had executed a summons of reduction, in order that the valuation might be set aside, or rectified. The Court (31st January, 1798,) pronounced the same judgment as in the case of Lamington ; at the same time ordering memorials in the process of reduction. Mr. Skene then acquiesced in the judgment, and the Minister being satisfied with the augmentation which had been given him, proceeded no further in the reduction.

In the case of the Earl of Mansfield, &c. against the Minister of Cummertrees, the Court (31st January, 1798,) pronounced the same judgment as in the case of Lamington. And afterwards, of consent of parties, this interlocutor was recalled, and the Minister found entitled to the whole valued teind ; 20th November 1799.

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1798. December 5.

SIR WILLIAM MAXWELL *against* The EARL of HOPETOUN.

No. 39.

In an united parish, where the teinds of the parishes of which it is composed belong to different titulars, an augmentation of stipend must be allocated on them, in proportion to the proven rental of each parish.

The parishes of Kirkpatrick-Fleming and Kirkconnel, were united about the end of the last century. The Earl of Hopetoun is patron and titular of the former, and Sir William Maxwell of the latter. They present a Minister to the united parish alternately.

In the parish of Kirkpatrick-Fleming, the teinds are chiefly in the hands of the titular. The whole parish of Kirkconnel belongs in property to Sir William Maxwell, who, besides being titular *quia* patron, has an heritable right to his teinds.

The Minister of the united parish having obtained an augmentation of his stipend, the Earl of Hopetoun gave in a scheme of locality, by which the augmented stipend was divided between the two parishes, in proportion to the old stipend paid by each.

Sir William Maxwell objected to the same, and

Pleaded : The union of the parishes must necessarily have the same effect as if the two had been originally one parish. Consequently, the whole free teinds in the united parish must be exhausted, before any part of the augmentation can be laid on teinds which have been heritably disposed. The parishes are united *quoad omnia*. If it had been meant that the civil rights of parties should not be affected, the union would have been *quoad sacra* only.

Answered: In so far as relates to the cure and the rights of the Minister, the parishes, in consequence of the union, are no doubt to be held as one. But all the beneficial purposes of uniting two parishes are obtained without depriving the respective titulars of their civil rights ; accordingly, it has been found that they are not affected by the union ; 13th July, 1774, Fotheringham against Bower, No. 27. p. 14815.

The Lord Ordinary "sustained the objection, and remitted to the clerk to rectify the locality accordingly."

No. 39.

But on advising a reclaiming petition for the Earl of Hopetoun, with answers, the Lords considering the point to be settled by the case of Fotheringham, "altered the Lord Ordinary's interlocutor, and found that the parishes of Kirkpatrick-Fleming and Kirkconnel, being under different titularities, the modified stipend must be divided betwixt the two parishes proportionally, effeiring to their respective rentals, and that each titular has only right to allocate the proportion thereof within his own titularity."

Lord Ordinary, *Ankerville*.  
Alt. *D. Williamson*.

For Sir William Maxwell, *H. Erskine*.

R. D.

*Fac. Coll. No. 95. p. 225.*1799. *January 23.*

The DUKE of HAMILTON, and Others, *against* LORD DUNDAS, JOSEPH WILLIAMSON, and Others.

In 1708, James, Earl of Linlithgow, who was titular of the whole parish of Falkirk, sold the teinds of the barony of Polmont, part of the parish, to the Duke of Hamilton.

This barony, and other lands in the parish of Falkirk, the teinds of which were held by those in right of the family of Linlithgow, were afterwards erected into the parish of Polmont.

In a locality of this last mentioned parish, it was considered by the Court, on advising memorials, as a point completely settled, that, as there were two titularities here, the augmentation must be divided between them according to their proven rentals, and separate schemes of locality given in, subdividing the burden among the heritors in each, according to the ordinary rules, i. e. exhausting the free teinds before those heritably disposed; 13th July, 1774, Fotheringham against Bower, and others, No. 27. p. 14815; 5th December, 1798, Sir William Maxwell, No. 39. p. 14832.

Judgment was given accordingly.

Lord Ordinary *Ankerville*.  
Alt. *Wm. Robertson*.

For the Duke of Hamilton, &c. *Ed. M'Cormick*.

D. D.

*Fac. Coll. No. 106. p. 244.*1801. *December 8.*WRIGHT *against* BINNING.

The Reverend James Wright, Minister of Maybole, obtained (23d November, 1796,) an augmentation of stipend in the teind-court. The process of locality was

No. 40.

When there are two titularities in a parish, the burden of augmentations of stipend is borne by them according to the proven rental of the lands in each, and separate schemes of locality are made up, subdividing the burden among the heritors in each, according to the ordinary rules.

No. 41.

A Minister is entitled to