

TEINDS.

SECT. I.

Nature and Effect of this Right.

1548. *January 21.*

The LAIRD of MERCHISTON *against* The GOODMAN of WRIGHTS-HOUSES.

No. 1.

In an action of spuilzie of teinds between the Laird of Merchiston and the Goodman of Wrights-houses, it was alleged, That the pursuer could not pursue for the whole teinds, because his libel bore, that he was only in possession of a part of them. The Lords found, quod possessio partis rei inducat possessionem totius, ut de spolio totius possit agi; nam quemadmodum per apprehensionem unius partis fundi, apprehendi censetur totum; so, by apprehending of possession of a part of these teinds, the pursuer censebatur fuisse in possessione totarum decimarum.

Spottiswood, p. 230.

1584. *March.*

CRICHTOUNE *against* RUTHVEN.

No. 2.

Robert Crichtoun of Lanerneythie, and certain of his tenants, pursued James Ruthven, brother-german to the Earl of Gowrie, for the spoliation of certain corns furth of their barns, barn-yard, arable lands, and field lands. It was answered, That they did not wrong in the coming to the barn-yards and taking away of the corns, because the defender being lawfully provided to the benefice of the sub-chancellory of Dunkell, and by virtue thereof had undoubted right to the said teind-sheaves, as proper parts of the patrimony of the said benefice, and had long time of before use and possession with the intronitting of the said teind-sheaves. It was answered, That he ought, according to the ordinary method, to have teinded the sheaves into the fields, and not to have come to the barn-yards to have cast

Teinding the corns by easting the stacks was found a spuilzie, and that it ought only to be on the ground.

- No. 2. the sheaves, the quhilk was not *habilis modus* of teinding. It was answered, That the defender cast the sheaves in presence of the pursuer, and he therethrough did intromit with the hail use of the corns in the stacks except the teinds, quhilk was separated frae the stack by the defender. The Lords found, that the casting of stacks was no lawful manner of teinding, and so repelled the exception.

Fol. Dic. v. 2. p. 439. Colvil MS. p. 399.

1610. January 19. HAMILTON against SPENCE.

No. 3.
Method of
teinding.

A spuizie of teinds cannot be elided upon requisition made conform to the act of Parliament, unless fifteen days be past after the shearing of that hail sort of corn which is sought to be teinded, before the first requisition be made, and that there intervene seven days betwixt the first and second requisition; and after the teind being sighted by neighbours, it be stacked upon the ground, and kept till Halloween.

Fol. Dic. v. 2. p. 439. Haddington MS. v. 2. No. 1747.

No. 4. 1610. July 5. DICKSON against KINCAID.

Teind-fish, and all other small fish, are of their nature reputed vicarage-teinds, and to appertain to the Vicar of the parish, unless some other Prelate either show a particular right of it, or else possession past memory of man.

Fol. Dic. v. 2. p. 439. Haddington MS. v. 2. No. 1942.

1610. January 5. RAMSAY against LORD ROXBURGH

No. 5.
*Decima
debentur
parochia.*

Teind-sheaves are of the law the patrimony of the Parson of the parish, and if the Vicar claim any part thereof, he must either prove it by mortification, or failing thereof, if he suspend and supply it *per decimalem possessionem*, he will not get that to prove by naked witnessess, but must have some adminicle in writ, as tack set by old rental, inhibition, acquittance, decret, or some other writ of that nature.

Some vicarages are founded upon teind-sheaves, as the most part of the patrimony of their benefices, as the Vicars of Barralenden, Cranston, Kirkbane, and the Vicar of Dunlop, who has seven chalder of meal, and the Vicar of Dumfries, who claims a chalder of bear.

Fol. Dic. v. 2. p. 439. Haddington MS. v. 2. No. 2132.