

inconclusive ; for when the stipendiary cannot make his locality effectual, the remanent free teinds of the parish are liable *subsidiarie* ; which is evident, in that, the stipend being *debitum decimarum*, the decret of locality does not exeem the other teinds, but decerns only the stipendiary to draw the localled teinds first.

No. 17.

The Lords found the heritor not liable ; but this sentence being reclaimed against, the cause was afterwards taken away by a submission.

Fol. Dic. v. 2. p. 394. Rem. Dec. v. 1. No. 77. p. 174.

1738. July 7. MARSHALL *against* The TOWN of KIRKALDY.

Where a second Minister is not established by the authority of the commission for plantation of kirks and valuation of teinds, but by private agreement with the heritors or Magistrates of burghs, neither he nor his successors are entitled to pursue an augmentation out of the teinds.

So it was found in the question between Mr. David Marshall, second Minister of Kirkaldy, and the Magistrates of the burgh, and Heritors of the parish of Kirkaldy.

Fol. Dic. v. 4. p. 299. Kilkerran, No. 1. p. 520.

No. 18.
A second Minister established by private agreement, not entitled to an augmentation.

1741. February 26. CAMPBELL *against* M'DONALD.

Found, that a judgment of the Church, loosing the relation of a Minister to his parish, or depriving him of his charge, did not deprive him of his right to the stipend, as what could only follow as a consequence of deposition.

Fol. Dic. v. 4. p. 299. Kilkerran, No. 3. p. 521.

No. 19.

1742. July 30. MINISTER of ESKDALEMUIR *against* SCOTT.

A decree of locality subjects the heritor personally to the stipend localled upon his land, and upon that medium it was found, That the Minister may charge any of the tenants for payment of the sum localled, and that the tenant is liable to the extent of his rent, stock, and teind, so far as the rent is in his hands.

Rem. Dec. v. 2. No. 31. p. 47.

No. 20.