

the Minister, by decret of Platt, *anno* 1617, in respect that Scot of Thirlston, who had right to the whole teind, out of which the stipend should be paid, and who was subject thereby in payment thereof, had disponed a part of the teinds to Harden, the suspender, and who, by virtue of that alienation, intromitted with the teinds disponed, and consequently who was, and became obliged to the Minister; the Lords found the Minister had good right to seek complete payment of his whole stipend from Harden; albeit that Harden alleged, That he ought to be found debtor in no further part of the stipend, but according to the proportion of so much of the teinds of the parish as was disponed to him by Thirlston, and bruiked by the suspender, which extended not to the tenth part of the teinds; and that Thirlston should be subject to pay the rest, who remained in the right and possession of the whole rest; for it were against equity, as he alleged, that he should pay all, who had so small a part of the teinds, and that the rest of the teinds should bear no burden; which allegiance and reason was repelled, and Harden found debtor to the Minister in the whole, reserving to him his relief *pro rata* against the possessors of the rest of the teinds of the parish; but it was found necessary to be proved, that Harden's right and intromission with the teinds extended to as great a quantity as would satisfy the whole stipend addebted to the Minister; which being proved, the charge was sustained against him at the Minister's instance, for the whole stipend.

Alt. Scot.

Fol. Dic. v. 2. p. 393. Durie, p. 174.

No. 4.
a minister may
betake himself
to any of the
heritors, in so
far as he has
teind, without
prejudice to
that heritor's
relief against
the others.

1627. July 4. M'KENZIE against PARISHIONERS of SCLAIT.

In an action of letters conform, at the instance of ——— M'Kenzie, minister of Sclait, against the Parishioners thereof, the Lords found, That a gift presenting, and, in the same presentation, admitting the Minister to the kirk, the same being a benefice at the Bishop of the Isles' presentation, was sufficient thereon to seek letters conform; and that there needed no other several collation nor institution, the benefice being given by the Bishop of the diocess, who was patron, and conferred by him, by his gift, to the Minister *pleno jure*: And because there compared another Minister, who alleged, that, upon another gift, granted to him by the same Bishop, of the same benefice, he had obtained letters conform, in his favour, so that no other sentence could be granted to another, this allegiance was repelled, in respect this pursuer replied, that he was actual Minister, and served presently the cure at the kirk, and had done the same these 18 years; which being proved, the Lords preferred him, notwithstanding of the other sentence of letters conform.

Act. Foulis.

Clerk, Gibson.

Durie, p. 303.

No. 5.