

No. 155. The Lord Ordinary found, "That, in respect the pursuer has not obtained protestation in the process of valuation of teinds, raised by Sir John Sinclair, he is not entitled to draw the *ipsa corpora* of the teinds of the defender's lands; therefore assoilzies the defender, and decerns."

Upon a reclaiming petition and answers, the Court adhered to the Lord Ordinary's interlocutor, "so far as it finds that the pursuer is not entitled to draw the *ipsa corpora* of the teinds of the defender's lands." But it was upon a different medium. The act 1693 was not thought to apply to this case, as there was no warrant putting the heritor in possession of his teinds, on his pursuing the action of valuation; but then, on the other hand, there was no law for ouing the heritor of the possession of his teinds. It was even questionable if, in such a case, there is occasion for a warrant. The heritor becomes defender, and is entitled to hold the possession; and it is the genius of our law, that the heritor should draw his own teinds. Indeed, if there should be any *mora* on his part, the titular may have relief from the Court.

Act. *A. Lockhart.*Alt. *M<sup>c</sup>Queen.*Clerk, *Kirkpatrick.**Fac. Coll. No. 36. p. 95.*

1772. July 22.

CHARLES FULLERTON of Kinnaber, *against* The NEW COLLEGE OF ABERDEEN.

No. 156.

Deductions  
in a valuation  
of teinds.

In this case, the Court upon advising memorials *hinc inde*, "sustained the deductions following, viz. of the rent of the Miln-eye of the over-miln of Kinnaber; the wauk-miln, snuff-miln, and ferry-boats on the north water of Esk, and houses, yards, and smiddy, possessed by David Scot, smith; and also of services and kains paid in kind; and likewise the butter, in respect the quantity is so small," being half a stone.

Act. *Al. Gordon, junior.*Alt. *Jo. Douglas.*Reporter, *Hailles.**Fac. Coll. No. 21. p. 60.*

1773. August 4.

DUNCAN CAMPBELL of Glendaruell, ANGUS FLETCHER of Dunans, and Others, *against* The OFFICERS of STATE and Others.

No. 157.

The rule of  
dividing a  
*cumulo* valuation  
of the  
teinds of  
lands in the  
county of  
Argyle, now  
belonging to  
different pro-

The teinds of the parish of Kilmoden, or Glendaruell, and of the adjacent parishes of Innerchelane and Strachur, were valued in the year 1629 by the sub-commissioners for the Presbytery of Argyle.

With regard to the lands contained in the report of the sub-commissioners, so far as now belonging to the parties in the present question, the use of payment to the Minister, as to some of these lands, was within the value of the teind, as ascertained by the said report. This was the case as to the lands of Glendaruell,