

This sum continued to be paid, till Dr. Mitchell, the present Minister of the parish, obtained an augmentation of his stipend.

The rental of the fishings was then stated at £.80 yearly.

A scheme of locality, in which above six bolls of grain were laid on the fishings, was approved of by the Lord Ordinary.

But the Court, on advising a petition, with answers, on the ground that fishings are subject only to vicarage-teinds, which depend entirely on possession, see 9th March, 1796, Hunter against Duke of Roxburgh, Sect. 3. *h. t.* found, "That the petitioners cannot be liable in any share of the augmented stipend."

Lord Ordinary, *Ankeruille.*

For the Minister, &c. *J. Ferguson.*

Alt. *Hay.*

*D. D.*

*Fac. Coll. No. 135. p. 307.*

1802. November 17. LORD DUNDAS, against BALFOUR and Others.

The Minister of Westray and Papa-Westray, in Orkney, raised a process of augmentation many years ago, and a considerable addition to his stipend was awarded by the Court; but, owing to the particular situation of the teinds of his parish, the stipend never was allocated. The decree of modification, however, was extracted, and the Minister levied the augmented stipend. Matters continued in this situation until a new incumbent succeeded to the charge, who brought a fresh process of augmentation, and the Court (November 26, 1800,) made a farther addition to the stipend, remitting to Lord Glenlee, Ordinary, to prepare a scheme of locality.

In arranging this locality, a question arose between Lord Dundas the titular, and the heritors, Whether the feu-duties, payable to his Lordship by the different heritors for the teinds of their lands, should be allocated, in the first instance, as free teind for the Ministers's stipend? This question had occurred in the localities of several parishes in Orkney, in the same circumstances as the parish of Westray and Papa-Westray, and the Court uniformly found, that the feu-duties were to be allocated upon as free teind in all these parishes.

The Lord Ordinary approved of a scheme of locality of Papa-Westray, which had been made up upon this principle; and the Court, upon advising a petition for Lord Dundas, with answers, in which the arguments formerly used were again repeated, adhered.

Lord Ordinary, *Glenlee.*

For Lord Dundas, *Robertson.*

Agent, *C. Innes, W. S.*

For Balfour, *Clerk.*

Agent, *A. Youngson, W. S.*

*J.*

*Fac. Coll. No. 60. p. 138.*

No. 92.

No. 93.

The feu-duty paid to titulars by heritors, for the teinds of their lands, may be allocated *primo loco* for the Minister's stipend.