

awarded under this application as interim aliment: Finds that the petitioner's father, the cadger, for some time took the petitioner and her children into his family, but he now refuses to aliment her any longer, has turned her out of his house, and she is now utterly destitute: Finds, in these circumstances, that the petitioner is entitled to parochial relief in respect of her infant children and the desertion of her by her husband, whatever claim of relief the parish may have against the husband: Therefore alters the interlocutor complained of, finds the petitioner entitled to relief for herself and her children, and ordains the defender to give her suitable relief accordingly."

The inspector of poor advocated.

MACKENZIE for advocator.

BALFOUR for respondent.

Before answer a remit was made to Dr Littlejohn to examine the petitioner's husband, and report as to his mental and bodily state.

The Court to-day held that the petitioner was not a proper object of parochial relief, her husband being able-bodied and not in desertion. Sheriff Alison's interlocutor was therefore altered.

Agents for Advocator—Mackenzie & Kermack, W.S.

Agents for Respondent—Maclachlan, Ivory, & Rodger, W.S.

Wednesday, March 20.

## SECOND DIVISION.

PLUMMER v. MACKNIGHT.

*Teinds—Decree of Valuation.* Circumstances in which held that certain lands were included in a decree of valuation.

This is a question between the common agent in the locality of Selkirk, and Mr Charles Scott Plummer of Middlestead. In making up a rectified state of teinds the common agent held, (1) that the teinds of certain lands of Blackmiddings, held by Mr Plummer along with the lands of Middlestead, were not included in a valuation of "the lands of Middlestead," dated 25th July 1636. (2) That Mr Plummer's share in the commonity of Selkirk, which had been divided by Act of Parliament in 1681, was unvalued. To this state Mr Plummer objected. He alleged, (1) that Blackmiddings was valued along with and included under the name of Middlestead in 1636, the lands being separately mentioned in the titles from 1628 downwards. On the other hand, no separate teind had been paid to the titular for Blackmiddings. It is now distinguishable as a separate subject; and in a valuation roll dated 1643, the deduction from Middlestead for feu-duty (no mention being made of Blackmiddings) is £30, 6s. 8d., being exactly the amount of the feu-duty which appears from the Crown titles to have been payable for both of the lands—viz., £24 for Middlestead and £6, 6s. 8d. for Blackmiddings. (2) That the lands of Sunderland, Sunderlandhall, and Yair were also valued by the same valuation of 1636. In 1676, there was a settlement of the boundaries of the commonity of Selkirk between the burgh and the heritors, afterwards ratified by Act of Parliament, by which parts of the commonity were allotted to the said lands now belonging to the objector. There was no subsequent addition to the titles.

The Lord Ordinary (Barcuple) found (1) that the objector had sufficiently established that the teinds of the lands of Blackmiddings mentioned in his titles are included in the valuation of the

teinds of the lands of Middlestead in the decree of valuation dated 25th July 1636 founded on by him, and are included in the tack of the teinds of the said lands of Middlestead, contained in a deed of tack between the Duke of Roxburghe and William Plummer of Middlestead, dated 26th August 1709, also founded on by the objector; (2) that the objector had sufficiently established that the teinds of the portion of ground which was by decret-arbitral dated 7th October 1676, and ratified by Act of Parliament in 1681, decreed to belong to William Kerr of Sunderlandhall, as part and portion of the common of Selkirk, and which now belong to the objector, are included in the valuation of the teinds of the objector's lands of Sunderland and Sunderlandhall, contained in the said decree of valuation, and are included in the tack of the teinds of the said lands of Sunderland and Sunderlandhall contained in the said deed of tack.

His Lordship's judgment was rested as to the first point mainly on the inference to be drawn from the valuation roll of 1643, by which he held that the *onus* on the heritor had been discharged; and, on the second point, he held that the proceeding of 1676 was rather a settlement of boundaries than a proper division of commonity.

The common agent reclaimed.

COOK and HALL for him.

SOLICITOR-GENERAL and WEBSTER for the objector.

The Court adhered to the judgment of the Lord Ordinary on the first point; and on the second, as raising an important question in teind law, ordered written argument.

Agent for Common Agent—James Macknight, W.S.

Agents for Objector—Hughes & Mylne, W.S.

CUNINGHAME v. WEBSTER AND ROYSTON.

*Lease—Agricultural Tenant—Tenant of Game-Plantation—Right of Pasturage.* Circumstances in which held that an agricultural tenant who had a right to pasture in the plantations adjoining his farm, was entitled as a pertinent of his right to trap or kill rabbits there as well as in other parts of the farm.

This is an advocacy from the Steward Court of Kirkcubright, and raises an important question as to a tenant's right in regard to game. It arises out of the following circumstances:—The advocator, who is tenant of the shootings on the estate of Kells, presented a petition to the Steward against the respondents, Robert Webster, who is tenant of the farm of Airds, and Thomas Royston, a rabbit-catcher there, craving to have them interdicted from trapping or killing game or rabbits in the Airds plantation, and from hunting or trapping game on the farm of Airds. The respondents denied that they had ever trapped or killed game on any part of the ground libelled, and to that extent objected to the interdict as groundless and unwarrantable. So far as it was directed against killing or trapping of rabbits, they maintained that the tenant of a farm had right to kill these to the extent of preserving his crops. Some correspondence had taken place between the parties, the general import of which was that the agricultural tenant was willing not to interfere with the rabbits if the game tenant kept them down within reasonable bounds; but he complained that that had not been done. The agricultural tenant had a right to pasture within the