

provision before the heretor, as he had man he burdened
 15 July 1636. 15 Feb. 1643. yet this even after the heretor
 had bought them, are liable to be Evicted by the Minister
 if there be no free tithes in the heretors hand 28 July 1634
 Parish of Selkirk contra E. Smith & gov. Because where
 stock and tithes are fenced together for a Common duty,
 nine parts thereof belong to the King, and the tenth
 to the Church as Spirituality in Contemplation of the
 tithes Act 29 Parl. 11, J. 6. It was found, that an heretor
 not with standing his Right cum Decimis included, should
 be liable to the Minister for the tenth part of the first
 duty, and have Relief against the Gittles par lante
 March 1684 heretors of Giltcalcum contra Colvill. And
 yet if a few more granted of lands and tithes for payment
 of a certain duty, and the heretor or Calpastrid (having the right
 of Superiority) should dispose the same, or nine parts of the first
 duty, leaving the tenth to himself, that he should in favor the heretor
 part as tithes, but to be liable to a higher, more than the other
 nine parts, Gittles not here liable. This power belonging to heretors
 be affected with the burden of tithes and Ministers provisions
 or augmentation, even of two Ministers in one parish, if the
 Commission thereof be Act 23 J. 2. Act 26 J. 4. Parl. 11. N.

The law was, that the heretor of tithes of a parish might
 allocate any persons to tithes he pleased towards the maintenance
 of a Minister that had no settled provision, and so Dispose
 the privilege belongs to heretors of buying their own
 tithes, And now Patrons Gittlers of laymen of heretors
 at the instance of an heretor, purposing a sale of his tithes,
 cannot allocate the purchaser's tithes, solely, but only proportionally,
 with the rest of the tithes of the parish; only they may
 except the tithes of their own lands, where there is deficiency
 of tithes Act 29 J. 2. Parl. 11. N. And a Patron having
 conveyed to the heretor for all right which he had or should there
 after acquire to the tithes of that heretors land, it was
 found, that the Patron not with standing the Superiorment
 law giving to Patrons the tithes of their Benefices not here
 tably disposed (Act 24) could not other ways burden the
 tithes with an allocation, than parate with the rest of the
 parish, without Exception of the tithes of his own property,
 3 Decemb. 169 & collardice of that Act contra N. Woodland.
 Because that right required to the Patron was found
 to revive to the heretor: and it were absurd to allow
 him

him who cannot take the overplus tithes, to himself, to assign
 them to the Minister, seeing that would be paid really, from
 facta Contractui, qui facit per alium facti per se. The allocation
 to the Minister, for paying his own tithes, is the same thing upon
 himself, tho' not, as if the Patron
 himself should, as if the Patron

When a Minister purpues a Modification or alteration
 or augmentation, the Gittler of the Gittles must be
 cited. sometimes a Minister for the more Dispatch gives
 a Contract of the stock and tithes of the parish, and offers
 to prove it by the oaths of the Defendants: Conform to which
 the Respond is Modified and executed upon them if he be as
 Confessed Dico supra part 1. B. 2. Qua. p. 1. Sect. 2. 34. But if
 in such a case the Gittler of the Gittles allege, that the heretors
 do by collusion with the pursuer fraudulently to conceal
 conceal their Assets, he may get a Decree, to file the
 or obtain the Decree in favour of the Minister to be
 qualified with this saving clause: without prejudice to the
 heretor to pursue the heretors for the impersuade
 of their tithes more than is contained and allocated in the
 Decree, 16 June 1678 Douglas contra his Juridiction. Ministers
 Decree of Provision and validity up to be drawn back by
 the Lord of Commission to the date of the Summons.

Sept. 2.

The Valuing & selling of Gittles.

If having been always Grievous and in case to be
 heretors and other to wait till their tithes were drawn by
 strangers, and prejudicial to improvement, the Parliament
 thought for preventing abuses Committed in the selling of
 tithes, to produce the Benefit of Valuation. That heretors
 and others might freely Intermit with their tithes, as
 well as the flock; and the tithes master Interest be Com
 pensated by an Equivalent Valued duty.

Valuations of tithes are sustained not only at the
 instance of heretors, but also of Ministers, or titulars
 or teachers, who must call the heretors and heretors
 in possession, in a process at their instance; and must
 be cited when the heretor pursues. 19 Feb. 1673 Lord Craigie
 contra Lord Cathcart & Burgany 29 January 1679 Lord
 of Aylow contra E. Rimes. Whence p. 1. lib. 2. p. 10. 8. 12.
 In a Valuation the heretors Instance, there was found
 necessity of calling the Minister even when he was
 present.