part of the teind before inhibition, he might lead the rest of it after the inhibition; and, for that year, the relocation was not interrupted, unless it were alleged that the tacksman did, *dolose*, lead the said part before the usual time of leading, thereby to prevent the inhibition. And if *dolus* were proven, the intromitter would be liable in a spuilyie; otherwise only for the tack-duty.

Page 295, No. 8.

1674. *February* 3. BLAIR *against* the PARISHIONERS of KINGARTH.

KINCATTEN, having a tack of the pasturage-teinds from one of the prebends of the chapel-royal of Stirling, being pursued for the vicarage, excepts, that he had been in possession for many years to lift the vicarage, as a pendicle of the parsonage-teinds, and that it was the custom of the prebendary. Which the Lords found relevant, although vicarage was not expressed in the tack. This practique is not in Stair.

Page 295, No. 9.

1676. *January* 14. the ABBOT of KINROSS *against* the FEUAR of KINROSS.

THE Abbot of Kinross, having feued out some lands of the abbacy for a feu-duty *pro omni alio onere, exactione*, &c. and with a clause *cum molendinis et multuris* in the *tenendas*, but not in the dispositive clause; and the feuar being pursued for abstracting multures, by the abbot's successor in the mill, who had got the mill long after the foresaid feu;—the Lords found the feuar free from astriction, by reason of the said charter.

Page 294, No. 4.

1678. *February*. SIR ADAM ——— *against* the LAIRD of ROBERTLAND.

ROBERTLAND,—having a tack of the teinds of his barony, lying in the parish of Stuarton, disponed a part of the said barony, with all right, title, and interest he had to the teinds of the said lands, and assigned the tack of teinds as to the lands disponed; and the disposition acknowledges, that there was a full price paid for lands and teinds;—warrants the teinds from fact and deed only. And there being a locality due to the minister out of the whole barony in general, which, for many years after the disposition, was wholly paid by Robertland, and his tenants in the lands not disponed; and the minister having thereafter distressed Sir Adam's tenants, Sir Adam intented declarator, that Robertland should relieve the lands disponed, of the payment of any part of the stipend,

there having been a full price paid for the teinds; and which the Lords declared; although it was alleged for the defender, that he disponed all interest he had in the teinds, and with warrandice from fact and deed. But the Lords laid weight on the freedom the pursuer had all the years past, which cleared the meaning of parties. And here the defender had taken a right of apprising against the whole barony, led against his predecessor his brother, reserving Sir Adam's right. And here the apprising was yet in the person of the defender-disponer; and so accresced.

Page 295, No. 10.

1679. *January* 15. GRIERSON of CHAPPEL *against* GORDON of SPADOCH.

THE Abbot of Halywood having disponed a piece of land-feu, with a mill that was on it, and the sequels, *reddendo* five merks, and the multures of the lands feued;—it was alleged against an action of abstraction, 1. The word *sequels* implies the multures, and the clause in the *reddendo* of multures is inconsistent, and seems an error. 2. The mill to which the pursuer would have the defender's lands astricted, is not within the barony and abbacy; and the mill of the barony and abbacy being ruinous, the defender might grind his corns where he pleased. The Lords repelled the first defence, in respect of the quality of astriction in the *reddendo*, and found the disposition of the mill was only for outsucken multure, and did not extend to the lands feued; but found the second defence relevant, That the mill was not in the barony, unless he would prove that the defender had been in use to come to the said mill, though without the barony, for the space of forty years.

Page 294, No. 5.

1680. *November* 26. ——— *against* JAMES ALEXANDER of KINGLASSIE.

THE wife of Mr James Alexander of Kinglassie, advocate, being cited, and himself by name designed only her husband;—alleged for the defenders, That, by the Act 6, Sess. 2, Parl. 2, Charles II, all pursuers and defenders ought to be named and designed in the execution; and a man's designation ought not to be drawn from his wife. The Lords, being informed that the process was malicious, at the wife's mother's instance, and that the affair would be amicably taken away, they cast the summons for that impertinent designation.

Page 255, No. 907.
