neither could that additional rent be stated;—and the Court went into that opinion without any decision, notwithstanding of the contrary decision, that the petitioners themselves, Dornocks, acknowledged in the case of the Minister of Kirkurd.

No. 15. 1740, Dec. 3. (4.) SIR JOHN DALRYMPLE *against* LORD PRIMROSE.

See Note of No. 13, *supra*.

No. 16. 1742, June 16. BALFOUR *against* OFFICERS OF STATE.

TEINDS being erected in favours of the Duke of Lennox, Balbirnie's author's bought his teinds from the Duke with the King's consent, and in 1629 and in 1635, the King having bought the teinds from Lennox, he annexed them in that year to the Bishoprick of St. Andrews. Now, in locallling a stipend, the question was, Whether the same should be laid upon Balbirnie, notwithstanding his heritable right, agreeably to the decision of Arngask in 1714, or if the Bishop's teinds, now in the Crown's hands, should be first allocated, agreeably to the decision 9th February 1734, in the case of the Parish of Nenthorn, and it carried first to allocate the Bishop's teinds. *Con.* were President, Royston, and Balmerino. *Pro* were Justice-Clerk, Minto, Drummore, Strichen, Monzie, Leven, *et Ego*, *et* Dun. Absent Arniston, Haining, and Murkle, and Kilkerran did not vote.

No. 18. 1744, Feb. 1. DUKE OF BUCCLEUGH *against* FEUARS OF DALKEITH.

The question was in a valuation of the tithes of the feuars of Dalkeith, whether any deduction ought to be from the rents on account of the dung of Dalkeith, whereof the town could at pleasure deprive them, for which deduction no less than seven judgments of the Court were quoted in the papers, from 1698, and even before it, to 1726, and others later upon the same reason in law. However, it carried by the President's casting vote, no deduction. Arniston, who was against the interlocutor, seemed surprised that the Duke's Commissioners judged in this question, and there were three of them for the interlocutor, 1st February 1744. 20th June, We altered the interlocutor of 1st February last, and found the feuars entitled to a deduction on account of the dung, and remitted to the Ordinary to hear on the quantity. *Con* were President, Royston, Minto, Dun, Murkle. *Pro* were Drummore, Kilkerran, Monzie, Arniston, *et ego*. Strichen did not vote. 6th February 1745, Altered by President's casting vote.

No. 19. 1744, June 20. COLLEGE OF GLASGOW *against* SIR J. MAXWELL.

FOUND that use of paying rental bolls could not hinder a process of valuation according to the present rent.

No. 20. 1744, NOV. 17. SIR ROBERT GORDON *against* DUNBAR.

NOTWITHSTANDING that these lands had never been set for a joint rent stock and teind, but the teinds had always been drawn while under corn; yet in respect there was no suf-

ficient evidence of the drawn teind (albeit it was in part owing to the heritors turning the grounds into grass, and keeping them all so from 1736, and a great part of them from 1732,) yet we thought his valuation could not stop on that account, and we valued the teinds at a fourth of the rent of the stock, which however we were sensible behoved to be short of the true value of the drawn teind with deduction of the King's ease, as it must be in all grounds that are not able to pay a rent equal to third and teind, which very few lands in Scotland are; and here the defender the titular insisted that he had proved by the opinion of the tenants, that the drawn teind was equal to the whole rent, 22d February. 7th November 1744, Adhered unanimously except Arniston.

No. 21. 1744, Dec. 5. COLLEGE OF GLASGOW *against* SIR J. MAXWELL.

THE first question was concerning large grassums regularly and immemorially paid, viz. L.2400 for a 19 years tack of a farm of L.560, and 400 merks for L.160 rent, and the Lords ordered a 19th part to be added to the rent; though in small grassums they would have been of a different opinion. Next as to costly improvements, by building new farm-houses, dikes, ditches, and planting hedges, which cost L.2500, and raised the rent from L.48, with 27 acres of muir, to about 400 merks for several years, and they are now worth only 200 merks; and the titular insisted that he was already repaid those expenses by the increased rent; which the Lords repelled, and found that none of the increased rent arising from those expenses should be computed in valuing the teinds, and therefore valued the old little farm at L.48, and the muir at 1s. per acre. The third question was anent dry multure, payable to the Bishop their superior by their charters; and the Lords found that the dry multures ought to be deducted from the rent, 5th December. 6th February 1745, Adhere to the last as to lands not then thirled to any mill, but none of the lands thirled to Sir John's mill of Pollockshaw.

No. 22. 1744, Dec. 1, 12. THE DUKE OF ROXBURGH *against* SCOTT.

THE Minister of Mow and Morbottle having in 1635 obtained decreet of valuation of the teinds, and a modification of the stipend, upon which two decreets were extracted of the same date, the first finding that such was the true extent of the teinds then and in all time coming; it was objected that a Minister had no title to pursue a valuation to any other effect than to obtain a modification and locality, but not to bind the titular and the heritors in questions among themselves; and so we found 20th June last. But upon reclaiming bill and answers, and a hearing in presence, we this day altered, and repelled that objection unanimously except Arniston, (and the Bench was full;) and the clause in the act 1633, especially with the addition in the commission 1641, "that the valuation of ilk parish be closed before modifying stipends," and which was left out of all the subsequent acts, had great weight with us. And though the Minister's interest extended indeed no farther than his stipend, yet it appears that the King's Advocate in the high commission, and the Procurator-Fiscal in sub-commissions, were in use to pursue valuations not for the King's interest in the annuity only, but to bind titular heritors, and all others concerned that were called.