

No. 23. 1745, June 26. MINISTER OF MORBOTTLE *against* MOIR OF OTTERBURN.

Found that a personal disposition without infestment is no sufficient title of prescription of teinds, where they are conveyed, and not only as a consequence of a patronage, or such other right, nor a tack.

No. 24. 1747, July 15. MAXWELL *against* DUKE OF QUEENSBERRY.

IN a valuation of teinds, parsonage, and vicarage, found that neither converted hens nor chickens were to be counted; nor the cess whereof the tenants were bound to relieve the heritors. In this last I gave no opinion.

No. 25. 1747, Dec. 2. LORD MUNZIE *against* THE OFFICERS OF STATE.

WE sustained a process for approbation of a valuation by the sub-commission in 1629, and repelled the particular objections to that valuation, and remitted to the Ordinary to proceed accordingly. Arniston said he had assisted in obtaining the first judgments approving of these valuations, yet if the matter were entire he would be of a different opinion. In this last I agreed with him. But there had been too many precedents now to go back; for in the last case quoted betwixt Murray of Philiphaugh and Lord Blythe, 30th July 1746, which I have omitted to mark, but whereof I keep the papers, there was a condescendence of no less than 11 or 12 former judgments approving of such valuations.

No. 26. 1748, July 5. CREDITORS OF TILLIBOLE, *Competing*.

ONE Dunning having purchased a parcel of lands, part of a barony, from Halliday of Tillibole, whereon he was infest, Tillibole's creditors pursuing a ranking and sale wherein these lands were included, the purchaser applied to have them struck out. There was no opposition as to the lands, but only as to the teinds, as to which, though they were not expressly disposed, the purchaser gave pretty convincing evidence that they were intended to be sold, viz. that the price was 22 years purchase of the whole rent, that the tenants tacks were assigned, that the seller was bound to relieve the buyer of bygone stipends, and 4to no demand for teinds from 1711, the date of the sale. But my difficulty was that this was a question with singular successors, viz. creditors, that teinds required a separate infestment, and that an express disposition of teinds would not be preferable to them if they were first infest. This was advised July 5th, when I was in the Outer-House, and I know not how my difficulty was removed, for it had been delayed several days till the Ordinary should consider the infestments both of Tillibole and the creditors. However, the Lords found that the purchaser had right to the teinds, and ordered them to be struck out of the sale.