turning their farms into grass could in law make any difference, or could have any influence on the question, how far the locality could retrospect. And whether the titular could have any claim of damages was a separate question. To this some of the Lords argued, if the whole heritors of a parish should turn their lands into grass, the Minister would lose his stipend. But the reply was obvious; that the law had provided an easy remedy to both Minister and titular, by pursuing a valuation; 2dly, that in this case there was abundance of teinds, either drawn or payable out of the other lands in the parish, much more than sufficient to answer the modified stipend. However, the Lords found that the locality ought to draw back to 1737, *renit. tantum* Kames, Murkle, *et me.*

No. 34. 1752, July 22. MINISTER OF CUSHNEY *against* THE HERITORS.

IN a process of modification and locality, as the teinds were of small extent, the Minister made all possible objections against deductions; and, 1st, a large article paid by the tenants to the heritors, in name of multures. We agreed, that as ordinary multures are teind free, should the heritors convert them to dry multures, so as the tenants would pay nothing at the mill but knaveship, &c. that is for the miller's labour, but not for the mill, these dry multures should also be deducted; but if under that pretence a victual rent should be paid, more than the multures could amount to, that should be liable in teind. Therefore before answer we ordained the parties to show what multures would by the custom of the country be paid at the mill out of an estate of that extent, or what rent the millers in the neighbourhood paid for the mill and multures. 2dly, As to poultry, we thought, what are called reek-hens, and are paid out of every cot-house or reek are teind-free, as the houses are; but other custom fowls are liable, agreeably to the words of the act 1633, by which the price is to be rated of all teinds consisting in money, victual, or other bodies of goods; and therefore we considered such a number of reek-hens as we thought suitable to the estate. 3dly, We thought that such services as are usual and *bona fide* paid, ought to be teind-free, though they be converted; and remitted to the Ordinary to enquire whether the converted services here were such as was agreeable to the judgment 23d July 1740, Douglas of Dornock. (No. 14.) 4thly, Found that all other customs but these reek-hens must be considered as rent, and not deducted in valuing the teind. 15th Nov. Adhered.

No. 35. 1753, Feb. 28. EARL OF MORTON, &c. *against* MARQUIS OF TWEDDALE.

EARL OF MORTON and Captain Stewart pursued a process of approbation of a valuation of their teinds led before Sub-Commissioners in 1629, wherein the defence was that the valuation was departed from by a contrary use of payment ever since. Answered: The payments made were of less value than the valuation. We allowed a proof before answer; and the proof came out that the valuation of Morton's lands was six chalders victual, two-thirds bear, and one-third meal, and L.8 for vicarage; and that there was an old rental of two bolls and a half of wheat and four bolls bear, and 18 bolls best black oats, and L.8. 6s. 8d. of money for vicarage, which has constantly been paid ever since;