

The objectors have, by their feu-charters, obtained a permanent heritable right to their teinds, very different from the temporary right of a lessee, and, for that reason, their teinds have been allocated only *secundo loco*.

No. 32.

For these advantages they have given a valuable consideration; and it cannot affect the rights of parties, whether it consisted in a price instantly paid, in a bond payable at a future period, or, as in the present case, in an equivalent annuity payable out of the lands; Erskine, B. 2. T. 10. § 38. See also Forbes on Tithes, p. 296.

The Lord Ordinary pronounced the following interlocutor: "In respect it is admitted, that part of the duties paid by the heritors of the parish of St. Andrew's and Deerness to Sir Thomas Dundas are teind-duties, finds, That these teind-duties are first to be allocated along with the other free teinds of the parish."

The Court "adhered" by two consecutive judgments.

Lord Ordinary, *Stonefield*.

For the Objectors, *Honyman*.

Alt. *W. Robertson*.

*D. D.*

*Fol. Dic. v. 4. p. 301. Fac. Coll. No. 27. p. 55.*

\* \* Similar judgments were pronounced in a case of the same kind, occurring between Mr. Grahame of Kinross and his Vassals. See APPENDIX.

1793. February 13. WILKIE against HERITORS of CULTS.

No. 33.

Where the teinds are exhausted, the Court cannot award an allowance for communion-elements out of the stock.

*Fol. Dic. v. 4. p. 301. Fac. Coll.*

\* \* This case is No. 5. p. 2493. *voce* COMMUNION-ELEMENTS.

1793. February 27. JOHN GORDON against The EARL of FIFE and Others.

No. 34.

The Reverend John Gordon, Minister of the parish of Strathdon, obtained, without opposition, an augmentation to his stipend, which was modified in grain.

The heritors, having afterwards discovered that almost the whole of their teinds were valued in money, in a reclaiming petition,

Pleaded: The Clergy were parties in the submission to Charles I. By his decretal, and by the various statutes made for enforcing it, it is declared, that valuations made under its authority, in which the Minister of the parish, and, in case of a vacancy, the Presbytery are necessarily defenders, shall never afterwards be called in question.

The teinds, in this case, have been valued in money; and to oblige the heritors

When the teinds are valued in money, an augmentation cannot be modified in grain.