various dispositions and sasines which have followed thereafter. All are called to be reduced, and that being done, the summons concludes for declarator that the defenders have amitted and lost their right to the said subjects, and that the property of these subjects has reverted to the pursuer as superior, and belongs to him as freely as if no feu-contract had ever been entered into. Then comes an alternative conclusion, that the disposition by Walker and the other deeds libelled are in contravention of a real quality or condition of the feu-contract against sub-infeudation, and that the defenders are liable to the pursuer in damages for the loss sustained by him through that contravention.

The first question is, Whether the pursuer has libelled any relevant or sufficient ground for reducing the title of his own vassal? That seems to me to be a very clear question. The condition of the feu-right on which the action is laid is a prohibition against the feuar to sub-feu, sell, or dispone. Now, it has been contended that that condition is lawful and effectual, and further, that it has been made a condition of the holding, and it is provided by the precept of sasine that it shall enter the infeftment and become a real burden, and so far, no doubt, the superior is entitled to enforce it. But how is it to be enforced? I could understand it to be done by annulling what is done contrary to the condition; but when you proceed to annul the right of the party who has violated it, that seems not only uncalled for but beyond the exgiencies of the case.

The right of the party is to enforce the contract, but reducing it is not the proper way of enforcing it. It would have been different if there had been an irritancy, so that immediately on violating the contract the feuar should lose his whole right, not that that would have grounded a reduction, but a declarator of irritancy. But there is no irritancy here, no penal consequences of any kind, and we cannot put them into the contract. Therefore as to the title of the vassal there is no ground for reducing it.

The case of *Coutts* v. *Tailors of Aberdeen* (1 Rob. p. 296) has no application to this part of the case, for all that was decided there was, that when a condition of such a feu-contract is made a real burden it transmits against singular successors, and has no bearing on the question of remedy.

But then comes the question as to reduction of the other titles. What is asked in the summons is total reduction. The possibility of entertaining a partial reduction was mooted; but the pursuer's counsel has frankly said that total reduction is what he contemplates, and so we must deal with the question. That makes it unnecessary to deal with the question of the competency of partial reduction. I think the reasons of reduction are not sufficient. The disposition by Walker to Bogle, the first purchaser—and one may be dealt with as a specimen of all the transmissions—is framed in the most usual form. It has a procuratory of resignation, to enable the disponee to enter by resignation, and an obligation to infeft by two manners of holding, and a precept of sasine. We all know how this came into practice, and how usual it is. It is not, in the ordinary case, a conveyance intended to create a permanent base right, but ultimately to complete the title and place the disponee in the shoes of the disponer. And there is no reason to doubt that that was the ultimate purpose of this conveyance. There is nothing in the dispositive clause violating the condition of the feu-right. There is no doubt as to the procuratory, which flows from a party quite in right to grant it. There is a precept of sasine for infefting the vassal; and if the obligation to infeft had been confined to an obligation to infeft *a me de superiore meo*, that would have been quite unobjectionable. So that after all it is a mere fragment of this title that is objected to as violating the prohibition to sub-feu. It is that which enables the vassal to take an infeftment which has the appearance of creating a base right in the meantime. But it is impossible to entertain a total reduction on that ground. For a superior to demand reduction of a disposition and infeftment, which yet he might be compelled tomorrow to confirm, involves an inconsistency. It is clear that the title granted by the vassal is no more reducible than the title granted to the vassal.

Lord Curriehill—I am of the same opinion; and shall only say, farther, that the action is founded on a mistaken view of the legal nature and effect of an obligation to infeft on a double manner of holding, with an indefinite precept of sasine.

Lords Deas and Ardmillan concurred.

Judgment of the Lord Ordinary adhered to.

Agents for Pursuer—Tawse & Bonar, W.S.

Agents for Defenders—Dundas & Wilson, W.S. and J. & R. Macandrew, W.S.

HOUSE OF LORDS.

Monday, May 6.

PRINGLE *v.* BREMNER & STIRLING.

(*Ante*, vol. i. pp. 84 and 125.)

Reparation—Wrongous Search—Apprehension—Warrant—Officers of Police—Relevancy. The pursuer of an action of damages against officers of police having alleged that the defenders had illegally and without warrant searched his house and repositories, and seized his papers; and that they had also illegally and without warrant apprehended him and lodged him in the police cells—Held (rev. C. S.) thad the action was relevant, and the case remitted for trial by jury. Observations (p. Lord Chancellor) on the terms of the issues.

This was an appeal against an interlocutor of the First Division of the Court of Session dismissing an action as irrelevant.

The action was at the instance of James Pringle, millwright, Barleymill, near Newburgh, in the county of Fife, against James Fleming Bremner, chief constable, and James Stirling, sergeant, in the Fifeshire constabulary.

The pursuer averred (Cond. 2)—"On or about the 24th December 1864 the defenders came to the pursuer's house, stating to the pursuer that they had a warrant to search the same. They accordingly searched the pursuer's house. They also searched his repositories, examined all his private books and papers, and seized upon and took away with them a number of the same. The defenders had no warrant for said search or seizure; and in making the same they acted illegally and wrongously. The pursuer is unable to specify the particular books and writings which were so taken away by the defenders, as, although requested, the defenders have failed to give him a list or inventory thereof. The defenders still retain the said books

and documents, greatly to the loss and inconvenience of the pursuer." (Cond. 3)– "Thereafter, and upon the same day, the defenders apprehended the pursuer, and took him to the lock-up or police cells at Cupar. The pursuer was lodged there, and detained therein till the following day by the defenders. The defenders had no warrant for these proceedings, which were wrongous, illegal, and oppressive." For these proceedings the pursuer asked damages.

The defenders in their statement narrated the facts of an outrage which had been perpetrated at the manse of Dunbog on the 31st day of October previous, the iron bush of a cart wheel, charged with powder, having been exploded near the house, in consequence of which explosion the front windows of the manse were broken, and the shutters and walls of the house damaged. They stated that on 14th December 1864 two threatening letters were sent, one to Mr Edgar, the minister of the parish, who had been inducted into the parish of Dunbog in 1863 amidst violent opposition on the part of certain parishioners, and the other to one of Mr Edgar's principal supporters. The writers of these letters, they alleged, appeared to be implicated in the outrage narrated. They averred (Stat. 5) "On 24th December 1864 a warrant was obtained at the instance of Alexander Black and William Morrison, joint procurators-fiscal for the county of Fife, from Mr Robert Sutherland Taylor, sheriff-substitute of the county, to search the premises at Barleymill occupied by the pursuer, for pieces of the wood of which the plugs used in plugging the bush had been made, and of the fusee by means of which the bush had been exploded; and this warrant was the same day placed in the hands of the defenders by the said procurators-fiscal, with instructions to execute the same. Accordingly, the defenders, James Stirling and James Fleming Bremner, in the discharge of their duty, proceeded to the premises of the pursuer the same afternoon. They saw the pursuer, exhibited the warrant, explained its nature, and offered to read it to him, but he said this was unnecessary, and that they might proceed with the search. A copy of the petition to the sheriff, and warrant thereon, has been produced in process." The pursuer's answer to this statement was, "reference is made to the alleged petition and warrant for their terms." He denied that the defenders exhibited or offered to read the warrant. He admitted that he did not interfere to prevent or stop the search, believing that the defenders, as officers of the law, would only do what they had a legal right to do.

The defenders further stated (Stat. 6)—"In the course of searching for the articles mentioned in the warrant, the defenders accidentally discovered a number of papers which seemed to them to throw light on the matter of the sending threatening letters before mentioned, which was then under investigation by the procurators-fiscal and the police, and to implicate the pursuer in the sending of these letters, either as the party sending them or as art and part. They thought it their duty, therefore, to take possession of these documents, and to take the pursuer into custody, and to carry him at once before the sheriff for examination. They accordingly took possession of the documents, and took the pursuer into custody, and carried him off at once to Cupar for examination before the sheriff." The pursuer "denied that the papers were accidentally discovered; and explained that the defenders in the beginning of their search proceeded to examine the pursuer's papers and books."

The pursuer pleaded—

"1. The search for and seizure of the books and papers of the pursuer by the defenders having been illegal and wrongous, and the pursuer having sustained loss, injury, and damage thereby, the defenders are liable to compensate him therefor."

A similar plea was founded on the apprehension and imprisonment of the pursuer.

The defenders pleaded—

"1. The pursuer's averments are irrelevant, and insufficient in law to support the action.

"2. The defenders, in the whole matters alleged against them, having acted in all respects legally and regularly in the discharge of their public duties as officers of the law, no good cause of action exists against them, and they are not liable in damages.

"3. The defenders, in the whole matters alleged against them, having acted in the discharge of their public official duties as officers of the law in good faith and on probable grounds, no good cause of action exists against them, and they are not liable in damages."

The pursuer proposed the following issues:—

"1. Whether on or about 24th December 1864 the defenders wrongfully and illegally searched the house at Barleymill occupied by the pursuer, or part thereof, and his repositories, and read and examined writings belonging to him or in his possession, and took possession thereof, and carried away several writings belonging to the pursuer, to his loss, injury, and damage?

"2. Whether on or about 24th December 1864 the defenders wrongfully and illegally apprehended the pursuer, and detained him in the police-office at Cupar till the morning of the 25th December 1864, to the loss, injury, and damage of the pursuer?"

The defenders objecting to these issues, the Lord Ordinary (Ormidale) reported the case to the First Division of the Court, with the following note—"The defenders objected to the proposed issues that they did not expressly state that the acts complained of were done without any warrant, that being the allegation of the pursuer in the record. It rather occurs to the Lord Ordinary that the issues are sufficient as they stand, leaving it for the defenders to show at the trial, if they can, that they had a legal warrant for what they did."

The Court, on considering the issues, thought that there was a certain ambiguity in the pursuer's statements in his revised condescendence, when compared with those made by him in answer to the defenders' statements; that a distinction seemed to be drawn by him between his house and repositories, and that whereas under the condescendence it was conceivable that it was in course of searching the house that the defenders came upon papers, the statement introduced in answer to the defenders' allegations negatived the idea of the papers having been accidentally discovered in the course of a search of the house. Their Lordships held that it was not clear that an officer, having a warrant to search for particular articles, might not even under that warrant secure others; and that it would depend upon the special circumstances of the case whether a warrant to search for one thing would entitle a seizure of others; that the case which the pursuer seemed to wish to make was, that the defenders proceeded and set to work to search

for papers instead of pieces of wood and a fusee; but as there was some dubiety as to his meaning, he should be allowed an opportunity of amending his condescendence.

The following statement by the pursuer was accordingly added to the record.

"On the occasion when the defenders came to the pursuer's house as aforesaid, the pursuer, who had been from home, arrived at his house just as the defenders had driven up. The pursuer's dwelling-house was situated on the side of a public road, and his workshop is separate, and at a short distance from it. The defenders informed the pursuer immediately on his arrival that they had a warrant against him; but they did not at this or any other time explain the nature of the said warrant to the pursuer. At the time when the defenders informed the pursuer they had a warrant against him, they were all outside the house, and it was so dark that the pursuer could not have read the warrant. The pursuer did not, after this, demand exhibition of the warrant, because he did not doubt the statement by the defenders that they had a warrant of some kind; and he assumed they would not exceed the limits of the warrant. After this the pursuer opened his dwelling-house, which the defenders entered, and a light was then procured. The defenders thereafter proceeded at once and without further ado to search the pursuer's writing desk and the drawers which it contained. The defenders spent between one and two hours in ransacking the said writing desk and drawers, and in reading and examining the MSS., books, letters, and papers which they found therein. The whole search made by them in the pursuer's dwelling-house consisted of the reading and examination of the pursuer's said books, letters, and papers. The pursuer is not aware whether the defenders ever made a search in his workshop."

The Court, after considering the pursuer's statement as amended, found that there was not on record matter sufficient to support any of the issues proposed, and assoilzied the defenders from the conclusions of the action as laid.

The pursuer now appealed against this judgment, stating the following reasons of appeal:—

1. Because the appellant's case was relevantly laid, set forth good grounds of action, and contained issuable matter.
2. Because the appellant should have been allowed the issues proposed by him, or such others as would have been suitable for the trial of the cause.
3. Because the judgment of the Court of Session appealed against proceeded on the footing that the respondents' statements were true, although they were denied by the appellant and had not been proved.
4. Because, although the respondents' statements were true, they did not in law afford a justification of their actings, nor warrant a judgment of absolvitor in their favour.

The respondents stated the following reasons in support of the judgment appealed against.

1. There is no averment which necessarily infers any breach of duty or any error in the mode in which the duty intrusted to the respondents was discharged by them.
2. Even if an error on the part of the respondents in the discharge of their duty could be inferred from the averments of the appellant, it would be necessary in the circumstances of the case to aver that it was committed maliciously and without probable cause.

Neish for the appellant.

Moncrieff, D.F., and Lee for respondents.

Lord Chancellor—My Lords, I submit to your Lordships that the interlocutors appealed from in this case cannot be maintained. The question depends entirely upon the first plea-in-law of the defenders—that the pursuer's averments are irrelevant and insufficient in law to support the action. This is in fact a demurrer which, admitting all the facts of the case, alleges that they do not show a sufficient ground of action.

In considering this question we must confine ourselves entirely to the case on the part of the pursuer, taking into consideration not merely his condescendence, but any admission which he may have made in answer to the defenders' statements, and which must be considered to be imported into and to make part of the case. Looking therefore to the condescendence, and to any admissions which are made on the part of the pursuer, is there or is there not a relevant case? That is—Is there not a sufficient cause of action stated which entitles the pursuer to have a trial by jury?

The condescendence seems to me very clearly to state not only a trespass in breaking and entering the house, called a "wrongous" entry in Scotland, but also the imprisonment of the pursuer. The second article of condescendence alleges, that "on or about 24th December 1864 the defenders came to the pursuer's house, stating to the pursuer that they had a warrant to search the same. They accordingly searched the pursuer's house. They also searched his repositories, examined all his private books and papers, and seized upon and took away with them a number of the same. The defenders had no warrant for said search or seizure, and in making the same they acted illegally and "wrongously."

Now, if I had been called upon to put a construction upon this statement, I should have felt very little difficulty in coming to the conclusion that there was what may be called a double allegation; the first being, that there was no warrant for the search or seizure—that is, no warrant for the act done originally; and the second being, that in making the search there was an excess of any authority which might have been legally exercised. But it appeared to the Court of Session that there was an ambiguity in this statement, and therefore they allowed the pursuer to add another article of condescendence; and that must be taken into account in judging of the relevancy of the case.

The additional condescendence which was allowed is this:—"On the occasion when the defenders came to the pursuer's house, as aforesaid, the pursuer, who had been from home, arrived at his house just as the defenders had driven up. The pursuer's dwelling-house was situated on the side of a public road, and his workshop is separate, and at a short distance from it. The defenders informed the pursuer, immediately on his arrival that they had a warrant against him; but they did not at this or any other time explain the nature of said warrant to the pursuer. At the time when the defenders informed the pursuer they had a warrant against him they were all outside the house, and it was so dark that the pursuer could not have read the warrant. The pursuer did not, after this, demand exhibition of the warrant, because he did not doubt the statement by the defenders, that they had a warrant of some kind; and he assumed that they

would not exceed the limits of the warrant. After this the pursuer opened his dwelling-house, which the defenders entered, and a light was then procured. The defenders thereafter proceeded at once, and without further ado, to search the pursuer's writing-desk, and the drawers which it contained. The defenders spent between one and two hours in ransacking the said writing-desk and drawers, and in reading and examining the manuscripts, books, letters, and papers which they found therein. The whole search made by them in the pursuer's dwelling-house consisted of the reading and examination of the pursuer's said books, letters, and papers. The pursuer is not aware whether the defenders ever made a search in the workshop.

Then, in addition to that (which must be taken as part of the condescendence), the original condescendence alleges—"Thereafter and upon the same day the defenders apprehended the pursuer, and took him to the lock-up or police cells at Cupar. The pursuer was lodged there and detained therein till the following day by the defenders. The defenders had no warrant for these proceedings, which were wrongous, illegal, and oppressive." In addition to this condescendence, in answer to one of the statements on the part of the defenders, the defenders having alleged that "on 24th December 1864 a warrant was obtained at the instance of Alexander Black and William Morrison, joint procurators-fiscal for the county of Fife, from Mr Robert Sutherland Taylor, Sheriff-Substitute of the county, to search the premises at Barley Mill occupied by the pursuer for pieces of the wood of which the plugs used in plugging the bush had been made, and of the fusee by means of which the bush had been exploded; and this warrant was the same day placed in the hands of the defenders by the said procurators-fiscal, with instructions to execute the same. Accordingly the defenders, James Stirling and James Fleming Bremner, in the discharge of their duty, proceeded to the premises of the pursuer the same afternoon."

In answer to this the pursuer says, "reference is made to the alleged petition and warrant for their terms." Now, it was said by the Dean of Faculty that this is an admission that there was a warrant in the terms of the one produced in process. I can only say that, if that is so, it appears to me it would be a very unjust conclusion to apply to an answer of this kind. The warrant is the justification of the defenders for the act which they are alleged to have done. That warrant, if a trial took place, must be produced by them; and this statement of "reference to the alleged petition and warrant for their terms" cannot amount to more than this, that the pursuer having heard that the defenders at the time they committed what he alleges to be trespass in his house, asserted that they had a warrant, he does not deny that there was a warrant, nor does he admit that there was a warrant, but he puts it on the defenders to produce the warrant at the trial, by referring to "the petition and warrant for their terms."

Now this being the state of the case, looking only at the pursuer's condescendence, and any admission which he may have made in answer to the defenders' statement, can it be said that there was not a *prima facie* case (because that is what I understand to be the meaning of a relevant case) on the part of the pursuer, which entitled him to call on the defenders for an answer to it? That, I apprehend, is the real question which is to be considered, and we are not to look beyond that to anything that may have been alleged on the part of the defenders by way of defence, except so far (as I have already said) as it may have been admitted by the pursuer.

Now it may be said (and as the argument has been urged it may be as well to observe upon it) that the constable, having a warrant to search merely for pieces of wood and pieces of a fusee, he had no right whatever to go beyond that, to ransack the house (if I may use the expression) and to endeavour to find something which might implicate the pursuer in the charge which was preferred against him. But supposing that in a search which might have been improper originally, there were matters discovered which showed the complicity of the pursuer in a crime, then I think the officers, I can hardly say would have been justified, but would have been excused, by the result of their search.

Then again, with regard to the arrest and imprisonment of the pursuer,—as to that it is not alleged that there was any warrant at all; but then it is said, the constable having discovered matters which in his judgment brought home to the pursuer complicity in the alleged crime, he was justified in exercising his discretion upon the subject and in apprehending the pursuer and lodging him in prison. Again, I say, answering in the same way as I answered with regard to the searching for paper, the result will either justify him or will not justify him; if the papers he seized really proved or gave a fair and reasonable ground to believe that the pursuer was implicated in the grave crime which was charged, then, although the officer might have had no warrant for his apprehension (and he had no warrant upon this occasion), yet the event would justify him and he would protect himself by the circumstances afterwards discovered.

My Lords, that really is the whole of the case. I wish to confine myself entirely to that which alone ought to be considered upon the question of the relevancy of the pursuer's statement, viz., whether, taking the whole of the pursuer's statement, not only what he alleges originally, but also what he states in answer to the defenders' statements, there is or is not such a *prima facie* case established as calls on the defenders for answer and justification. I leave entirely out of consideration, although it has been brought into the argument, anything that may have been alleged on the part of the defenders by way of justification, and confining myself, as I have said, to the statement of the plaintiff's case, I can have no doubt whatever that he has stated a relevant case, and was entitled to have that case submitted to a jury.

Now it is said that it would be better for us not to touch the question of the issues that have been framed, but to leave them for consideration by the Court of Session. But I think that possibly it might save a little expense and trouble in Scotland if we were to express an opinion on the subject; and it seems to me that the issues are properly framed for the purpose of raising every question that can be raised between these parties. I do not think it could have been at all necessary, as was contended on the part of the defenders, that the words should be introduced that the acts complained of were done without any warrant. I think that is covered by the words of the proposed issue, "that the defenders wrongfully and illegally searched the house at Barley Mill." That necessarily involves in it that they had no legal warrant or authority to do the act. There is no necessity to specify any

justification that they may have. The pursuer alleges this, and he puts it on the defenders to show that they have a legal answer to his complaint.

Under these circumstances, my Lords, it appears to me that the interlocutors appealed from must be reversed and that the case must be remitted to the Court of Session.

Lord Cranworth—My Lords, I entirely concur with my noble and learned friend; and should hardly think it necessary to add a single word, except that the Dean of Faculty seemed to suppose that in deciding that there was a relevant case here stated we should bring into doubt the proposition that a constable or police-officer has authority to take a person into custody if he has probable ground to suppose that he is a party who had committed a felony. Nothing of the sort follows from our holding that a relevant case is here stated. All that we decide in holding that there is a relevant case here stated is, that, *prima facie*, a wrong was done, which entitles the pursuer to have his case tried by a jury, although it is possible that the wrong complained of may be justified by showing that the person who is alleged to have committed it was a police-officer, and either that he had a warrant which authorised him to do what he did, or that a felony having been committed, he had reasonable ground for the course he pursued in taking possession of certain documents, and also imprisoning the person alleged to have committed the felony. It seems to me that the whole question is left entirely open, and that unless it were left to be tried by an issue or issues wrong would be done to the pursuer.

Lord Colonsay—My Lords, this case, in any view of it, resolves itself into a very narrow question, and chiefly one of pleading. I apprehend that the statement of the pursuer here is not that his premises were searched without the existence of any warrant at all, but that the true reading of his statement is, that there was no warrant for doing that which they did in the course of the search. As to the reference which is made to the petition and warrant for their terms, I interpret that as saving the party from admitting that the terms of the petition and warrant are such as are set forth by the pursuer in the article to which that is an answer.

Now, the case being one of excess of authority by reason of having done things which the warrant did not authorise to be done, though the parties were lawfully in the house and lawfully searching, the question comes to be, What was it that the constable might have been held justified in doing? If the constable is to be held under such circumstances as justified in taking possession of papers which he finds implying complicity in the offence which is under investigation, then I think that the constables here would have a good defence in stating, and in proving at the trial, that they had taken possession of papers which gave them reasonable ground to suppose that this party was implicated in the offence. We have not the terms of those documents set forth. I do not know that that was necessary; and I do not think that the non-production of the particular documents themselves is a sufficient ground for the pursuer's not alleging that they were not of such a character as is described, because they were the pursuer's own documents in his own possession formally, and must be presumed to have been within his own knowledge.

So also I concur in the observation that has been made, that if, in the course of executing such a warrant, the constable finds elements for implicating the party in an offence which is under investigation, at the instance of the public prosecutor it is his right and his duty to take that party into custody if the offence is a serious one, and to bring him before a magistrate. No doubt, if he has not reasonable grounds for doing so, he is responsible for his act. And then the question comes to be, whether the want of reasonable ground for doing so is an element of liability? If it is an element of liability, then the question arises whether it is for the pursuer to allege that there was no reasonable ground, or whether it is for the defenders to set forth that there was reasonable ground.

In judging of cases of this kind we are accustomed to examine the whole record, consisting of the statements of the pursuer, the statements of the defenders, and the answer of the pursuer. And the answer of the pursuer to the statements of the defenders may throw material light upon the relevancy of the pursuer's case; and still more, it may come in explanation of any ambiguous parts of the pursuer's case; and where there is ambiguity on the part of the pursuer, which he declines to clear up, I apprehend that he is in error in pleading in such terms. The view taken in the Court below appears to have been that the pursuer had not set forth, in sufficiently explicit terms, all the elements that were necessary to make a case of liability in damages. The view taken by your Lordships is, that he has set forth enough to make it the duty of the defenders to set forth that they had reasonable grounds for what they did. That is a very narrow question upon a matter of pleading. I have been of opinion, and I cannot say that I am entirely shaken in that opinion, that the statements of the pursuer were evasive, and avoided that which was the main point in the case, the reasonableness or non-reasonableness of the conduct of the constables. However (as I have said), that is a very narrow question of pleading; and as it is held that nothing that is done in this case interferes with the proposition which was contested in the Court below—that a constable in executing a search warrant for certain articles, and finding other articles that tend to implicate the party, and taking those articles and the party himself also into custody, is only acting in the performance of what may be his duty—I think there is the less reason to regret that there should be any difference of opinion in regard to this case. I therefore do not enter further into the case, beyond expressing my opinion, as I have shortly done.

Interlocutors reversed. Cause remitted.

Agents for Appellant—Wm. Miller, S.S.C., and Adam Burn, Doctors' Commons.

Agents for Respondents—Murray, Beith, & Murray, W.S., and Loch & Maclaurin, Westminster.

Saturday, May 11.

NICOL AND OTHERS *v.* PAUL.

(In Court of Session, 3 Macph. 482.)

Teinds—Valuation—Barony. A summons of valuation brought into Court the "lands and barony of A." In the process a rental was produced of several holdings, bearing to be a rental of the "haill lands libelled." The lands specified in the rental were separately valued in the decree. Judgment of the Court of Session, finding on construction of the decree that the teinds of those portions of the barony, if any, which