

1621 *January 25.*MR. DAVID MORRINS *against* The LORD of BALCASKIE and ABBOTHALL.

No. 11.

In the action of glebe pursued by Mr. David Morrins against the Lord of Balcaskie and Abbothall, the Lords found, that albeit the teinds of Fasyd pertained to Pittenweem, yet the lands might be of the parish of Cairnbie pertaining to Dunfermline, especially because they offer them to prove, that the small and vicarage-teinds of Falsyd were ever paid to Cairnbie.

The contrary betwixt the same parties, *penult.* January, 1617.

Kerse MS. p. 9.

1624. *July 23.* LORD HERRIS *against* LORD DRUMLANRIG.

No. 12.

Jurisdiction in
matters of
teinds.

In an action pursued at the instance of the Lord Herris against the Lord Drumlanrig, for reduction of a decret of spuilzie of teinds, which was obtained by the defender against the pursuer, before the Commissary of Dumfries, the Lords found not themselves judges in this reduction; but found, that the Commissaries of Edinburgh were only judges to reduction of sentences given by other Commissaries, in respect of the act of Parliament *anno* 1609, whereby the commissariots are given to the Bishops. And this was found, albeit it was answered by the pursuer's procurators, As that act of Parliament ought not so to be understood as to take away that jurisdiction from the Session absolutely, but that thereby power was given also to the Commissaries of Edinburgh to judge in such cases, and so that act was made *cumulativè*, and not *privativè*, to seclude the Lords, but that the Lords might judge, and also the Commissaries, seeing the Lords were supreme Judges in the Kingdom, whose jurisdiction could not be taken away, nor the same impaired, except they had been called thereto, and that after citation it had been done, which was not done; and therefore ought not to be respected, in respect of the last act of the same Parliament, viz. *Salvo jure*, &c. whereby it was ordained, that private acts should not prejudge parties having interest, not cited to hear these acts made; and as the Session are judges to suspensions of such decreets, and will, and may, and frequently find Commissaries' decreets null, by way of suspension, far more may they take them away by actions of reduction, and be judges therein. All which was repelled, in respect of the act of Parliament foresaid.

Act. *Aiton, Stuart, & Belshes.*

Alt. *Hope, & Nicolson.*

Clerk, *Gibson.*

Durie, p. 140.