

there having been a full price paid for the teinds; and which the Lords declared; although it was alleged for the defender, that he disposed all interest he had in the teinds, and with warrandice from fact and deed. But the Lords laid weight on the freedom the pursuer had all the years past, which cleared the meaning of parties. And here the defender had taken a right of apprising against the whole barony, led against his predecessor his brother, reserving Sir Adam's right. And here the apprising was yet in the person of the defender-disponer; and so accresced.

*Page 295, No. 10.*

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1679. *January 15.* GRIERSON of CHAPPEL *against* GORDON of SPADOCH.

THE Abbot of Halywood having disposed a piece of land-feu, with a mill that was on it, and the sequels, *reddendo* five merks, and the multures of the lands feued;—it was alleged against an action of abstraction, 1. The word *sequels* implies the multures, and the clause in the *reddendo* of multures is inconsistent, and seems an error. 2. The mill to which the pursuer would have the defender's lands astricted, is not within the barony and abbacy; and the mill of the barony and abbacy being ruinous, the defender might grind his corns where he pleased. The Lords repelled the first defence, in respect of the quality of astriction in the *reddendo*, and found the disposition of the mill was only for outsucken multure, and did not extend to the lands feued; but found the second defence relevant, That the mill was not in the barony, unless he would prove that the defender had been in use to come to the said mill, though without the barony, for the space of forty years.

*Page 294, No. 5.*

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1680. *November 26.* ————— *against* JAMES ALEXANDER of KINGLASSIE.

THE wife of Mr James Alexander of Kinglassie, advocate, being cited, and himself by name designed only her husband;—alleged for the defenders, That, by the Act 6, Sess. 2, Parl. 2, Charles II, all pursuers and defenders ought to be named and designed in the execution; and a man's designation ought not to be drawn from his wife. The Lords, being informed that the process was malicious, at the wife's mother's instance, and that the affair would be amicably taken away, they cast the summons for that impertinent designation.

*Page 255, No. 907.*

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