

pursued by Tweeddale for their rents, they craved allowance of a fourth part of the tack-duty for the drawn teind. No. 42.

The Lords finding the tack-duty was but reasonable, they modified only a fifth part thereof for the drawn teind.

*Harcarse, No. 965. p. 274.*

1684. February.

ARCHIBALD FRIERLAND against The LAIRD of ORBISTOUN.

Found, That a tack of teinds let by a minister for his life-time, and five years after, without consent of the patron, did subsist for three years, and was only null *quoad excessum*. And another tack of the teinds granted to the patron, being questioned as simoniacal, and quarrellable by the next incumbent, the Lords found, that, by the act 1. Parl. 21. James VI. and act 9. Parl. 1. Charles II. patrons are allowed to transact with their Minister for a tack of the teinds, reserving a sufficient allowance the to Minister, which, by law, is not simony. No. 43.

*Harcarse, No. 966. p. 274.*

1684. December 4. BULLO, Minister of Stobo, against PARISHIONERS.

In a pursuit at the instance of ——— Bullo, Minister of Stobo, against his Parishioners, for the parsonage-teind of their lands, No. 44.

It was alleged for the defenders: That though the pursuer be presented to the parsonage, he can have no further claim than to his stipend, which is modified by a decree of the Commission.

Answered: A parson has oft-times a modified stipend when the teinds of his parish are under tack, and when the tacks are out, he has right to the teinds. Besides, it is *jus tertii* to the defenders, who have no tacks of their own teinds, to make such an exception against the Minister's title.

The Lords sustained the answer, and decerned for the teinds.

*Fol. Dic. v. 2. p. 439. Harcarse, No. 692. p. 195.*

1685. March 1.

MR. ARCHIBALD GRAHAM, Bishop of the Isles, against JOHN CHARTERIS, &c.

Mr. Archibald Graham, Bishop of the Isles, having charged John Charteris, George Wedderburn, and other merchants of Edinburgh, for £.4 Scots, as the price of the teind for each last of herring taken in the seas adjacent to his diocese, they suspended, on this ground, That he was never in possession of any such teind-duty from them, who are not the slayers and first takers, but only the buyers at No. 45.

A churchman pursued the buyers of salmon caught upon the coast of his district