

The Lords commissioners found Sir Robert Gordon was entitled to have deduction of the King's ease; and found that his teinds ought to be proportionally burdened with the teinds belonging to Dunbar of Newton.

No. 67.

D. Falconer, v. 2. No. 124. p. 140.

1750. June 27. DUKE of ROXBURGH *against* DICE.

The Duke's Chamberlain having pursued William Dice, schoolmaster at Selkirk, before the Commissary of Peebles, for certain sums due by him as the teinds of some lands belonging to him in and about Selkirk, payable to the Duke as titular; Dice proponed compensation upon the proportion of the salaries due to him as schoolmaster forth of the said teinds.

No. 68.
If school-
master's sala-
ries affect
teinds?

Which the Commissary having sustained, the Duke presented a bill of advocacy on this ground, That, by law, schoolmasters' salaries do not affect teinds, as the burdens affecting teinds are known and defined in law, whereof schoolmasters' salaries are none. So, by act 5. Parl. 1. Charles I. entitled, "Ratification of the act of council anent plantation of schools," these salaries are to be laid on the plough or husband-land, and a titular of teinds as such has neither; and by King William's act "For settling schools," the burden of the schoolmaster's salary is laid on the heritors, that is, heritors of land in contradistinction to those who have right to teinds, who are called titulars, tacksmen, or teind-masters, but are no where called heritors. And in the same act the heritors are allowed relief from their tenants, which will never apply to titulars who have no tenants. Nor was it of any importance, that the Duke's teinds are valued in the cess-books, as the acts of convention and acts of Parliament appoint the land-tax to be levied out of titulars' teinds as well as lands.

The Lords would have remitted with an instruction to repel the defence, and it was only in respect the point merited a judgment of the Court that the bill was passed.

Kilkerran, No. 14. p. 558.

1751. February 13.

ANSTRUTHER *against* The OFFICERS OF STATE and MARQUIS OF TWEEDALE.

Captain Philip Anstruther of Inverkeithing, proprietor of certain lands within the Abbacy of Dunfermline, brought a process of valuation and sale of the teinds thereof before the Lords, as commissioners for plantation of kirks, &c. wherein he called the Officers of State and the Marquis of Tweedale, who has a tack of the Abbacy from the Crown.

No objection was made to the valuation; but as to the sale, it was alleged for the defenders, That the teinds of the Abbacy of Dunfermline, lying on the north

No. 69.
Teinds be-
longing to
the abbacy
of Dunferm-
line.—Im-
port of the
act 1633,
Cap. 17.