

1624. November 9. HOPE against KINNEIR.

Mr. Thomas Hope's tack of the lands of Craighall, let to him by Mr. David Kinneir, for so many life-rents, and as many nineteen years, found good, in prejudice of the second and fourth acts of Parliament 1617. Against which, *1mo*, It was alleged, That it was null, being of a chapter-kirk of St. Andrew's, without consent of the Chapter. Answered, The act of Parliament appoints only so many ministers to be in place of the Chapter, without whose consent the Bishop should do no deed concerning the administration of the affairs of the said bishoprick, but not *e contra*; for, if so were, since there are sundry laick benefices of that chapter, by that act the laick patrons should be heavily prejudged. It was replied, That the Bishop and Chapter being *relata*, as the Bishop being the head of the same, can do nothing without the consent of the Chapter, much less may the members do without his consent. The Lords sustained the tack let without consent of the Chapter.

2do, The tack was alleged to be null, as being let by an inferior beneficed person for longer space than five years and a life-rent. Answered, Tacks so let are not declared null, but the persons only declared infamous: Next, that to supply the registration of it in the Clerk's register appointed for that use by the Parliament, there not being one of that sort, he had registered the same in the books of Council and Session. Which reply was found relevant.

Spottiswood, p. 333.

1627. March 16. INGLIS against KIRKWOOD.

In a spuilzie betwixt John Inglis and Kirkwood, the Lords found, That the pursuer having right to the teinds, he had competent action for the true avail and worth of the teinds (for the pursuer restricted his action of spuilzie to wrongous intromission) against the master and heritor of the ground, who had let the lands to tenants, for payment of a certain yearly duty promiscuously, for stock and teind to himself; and that, by letting of the same to the tenants, the foresaid action was also competent against the master, as against the tenant, or the actual intromitter with the corns, stock, and teind-sheaves, which grew upon the said lands; neither was the said action found to be only competent against the intromitters with the corns, as the defender alleged; which allegiance was repelled.

Act. *Nicolson.*

Alt. *Foulis.*

Clerk, *Gibson.*

Fal. Dic. v. 2. p. 437. Durie, p. 291.

No. 13.
Right to
teinds.

No. 14.
An heritor
found liable
to the titular
for teinds, be-
cause he had
let the stock
and teind pro-
miscuously to
a tenant, and
received rent
therefor.