

1678. July 12.

SIR JOHN FORBES of Monimusk *against* MENZIES of Pitfoddels.

No. 103.

In an action pursued to have it found that Menzies ought to bear a proportion of the Ministers' new augmentation, because his teinds, though his charter designed them *decimæ inclusæ*, yet were not truly such as have the privilege of exemption from paying any part of Ministers' stipends; because they were known and separate from the stock, in so far as his charter bore a separate *reddendo*, and duty payable for these teinds, viz. twenty-eight bolls of victual; likeas, *de facto*, they bore a part of the Ministers' old stipend; "the Lords found they were not the true kind of *decimæ inclusæ*, and therefore decerned him to bear a part of the new augmentation."

Fountainhall, v. 1. p. 7.

No. 104.

1678. July 16. EARL OF QUEENSBERRY *against* GEORGE DOUGLAS.

A pursuit for teinds. Alleged the acres were of old a vicar's glebe, which by the Canon law paid no teind. Answered, Although they were free of the vicar's possession, yet they cannot plead exemption in a laick's, and the 62d Act, Parl. 5. James 6th, (1578) mentions not vicar's glebes. The Lords sustained the allegiance, unless the pursuer would prove they had paid teind within these forty years. It would not hold in vicar's lands, for they have no such privilege.

Fol. Dic. v. 2. p. 438. Fountainhall MS.

1678. July 17.

JOHN HOPE of Hopetoun *against* GEORGE YOUNG in Winchburgh.

No. 105.

Relief from  
Ministers'  
stipend, by  
what means  
obtained?

John Hope pursues George Young for the teinds of certain lands, which George bruiked by tack. Alleged, *absolvitor*, because, by the Earl of Winton's disposition, to the pursuer, of these lands, the defender's tack and prorogation thereof is expressly reserved, bearing a certain duty to be paid by him for feu, teind and silver duty; and so the pursuer can never be heard to crave any more than that duty which is stated in the disposition accepted by him, and by which he bruiks; besides, by the tack, he is to be relieved of Ministers' stipends, which clause would not have been inserted had he not paid the tack-duty for teinds and all; likeas, the defender and his predecessors have been in immemorial possession of these lands for payment of the tack-duty, both for stock and teind, and the teind was never drawn. Answered, Neither his tack nor rental mentions the teinds to be set in tack, and therefore he can never have right to teinds which are not disposed to him; and the mentioning the duty in Hopetoun's disposition can never give him