

value of the lands, by their sowing and holding, it was found, "That the fifth part of the rental must be the rule, and that the services cannot come *in compute* thereof."

No. 58.

In valuations and sales of teinds, poultry are never computed, even though the master have the option to take poultry, or so much money as the value. Neither are services ever computed in estimating the extent of teinds; and so it was determined in this case, although the rent paid was alleged to be a third lower, on account of the great services paid.

How teinds are to be valued in a sale of lands, *vide* February 23, 1749, No. 8. p. 13317.

*Kilkerran, No. 1. p. 548.*

1739. July 18.

HERITORS of the PARISH of CALDER *against* The COLLEGE of GLASGOW.

Where a loch was drained, at a great expense, and the soil reduced to arable land, the same was, in an action of valuation before the Lords, as Commissioners for Plantation of Kirks, &c. found not liable to teind; and that not only while the subject remained with the original drainer by personal exception till he should be repaid his expence, but that the exception was competent to the singular successor for ever; for that wherever a rent arises by an extraordinary improvement, so far the titular has no claim thereto.

No. 59.  
Extraordinary improvements.

*Kilkerran, No. 2. p. 549.*

1744. December 8. KATHARINE COCHRAN *against* OLIPHANT.

The Lords, Commissioners for Plantation of Kirks and Valuation of Teinds, "found, That the Patron of a Provostry had right to the teinds thereof, in virtue of the 23. act, Parl. 1690, and act 25. Parl. 1693."

No. 60.

*D. Falconer, v. 1. p. 23.*

1745. June 25.

MR. ANDREW CHATTO, Minister of Morbottle and Mow, and the PATRON, *against* MOIR of Otterburn.

Every man who alleges a right to his own teinds must shew that his author had a right, unless he can plead prescription; and though teinds may be conveyed, and, before the Reformation, could not otherwise be conveyed than by tack, or other personal right, yet, when the question is of prescription, it is not plead-

No. 61.  
Infestment in teinds necessary for prescription.