

No. 30. 1750, Jan. 17. SAME PARTIES.

See second Note of No. 29.

No. 31. 1751, Feb. 13. CAPTAIN ANSTRUTHER *against* MARQUIS OF TWEDDALE, &c.

THE Lords found the teinds of the Abbey of Dunfermline saleable, notwithstanding of the annexation to the Crown by the 160th act 1593, *renit.* President and Kilkerran. My reasons were none other than what are set forth in the papers. I thought that by the *proviso* in that act, there was no other annexation of those tithes than of the tithes of the other Prelacies by the act 1687. 2dly, I thought there was a total dissolution of that annexation in favours of the Queen and heirs of that marriage, which might have been different from the heirs of the Crown. 3dly, I thought that annexed or not annexed, the sale under the acts 1633 and 1690 reached the Crown tithes as well as the subjects, and as it was admitted they might be valued, that was allenarly as falling under these acts.

No. 32. 1752, Jan. —. SPOTTISWOOD *against* SIR. T. KIRKPATRICK.

(LORD ELCHIES'S observations upon this case are written upon the petition for Sir Thomas Kirkpatrick, bound up in the volume of his Lordship's Session papers, marked P. R. S.—As his Lordship gives no statement of the case, it becomes necessary for the Editor shortly to explain it.—

The parish kirk of Dalgarno in Nithsdale belonged, before the Reformation, to the Abbey of Holyrood House, of which John Bothwell was made Commendator in 1582. Upon his decease in 1612, the King named John Spottiswood, eldest son of Archbishop Spottiswood, to succeed Bothwell as Commendator. In 1621, Spottiswood resigned into the King's hands the teinds and patronage of Dalgarno, together with some other kirks belonging to the Abbey, and obtained from his Majesty a charter of them to himself, his heirs and assignees, upon which he was infeft. In consequence of this grant, Sir John Spottiswood executed inhibition against the possessors of the teinds, and assigned certain tack-duties of victual payable by the possessors to the Minister in full of stipend. In 1633, King Charles I. proposing to erect the new Bishoprick of Edinburgh, purchased from Sir Robert Spottiswood the Barony of New Abbey, and Sir John and his brother Sir Robert concurred in disposing six Churches to his Majesty, of which Dalgarno was one. An act of Parliament was passed dissolving this Abbey, and these Churches, from the acts of annexation, passed in favour of the Crown, and this act is particularly excepted from the general act *salvo jure* passed in that Parliament. In the same year the King, by a charter under the Great Seal, erected the Bishoprick of Edinburgh, and mortified the lands and teinds disposed by Sir John and Sir Robert, as a constant revenue to the Bishop of this new See. Episcopacy having been abolished in 1640, these lands and teinds of consequence reverted to the Crown. But as no price had been paid to the Spottiswoods, the King, in 1641, granted a signature to Sir Robert of the subjects which he and his brother had resigned. In consequence of the ensuing civil war, the