

1662. June 24. MR. ALEXANDER VERNOR *against* GEORGE ALLAN.

No. 8.

A merchant having bought a crop, before the teind was drawn, was found liable for the stipend, though he had paid to the seller the full price.

Mr. Alexander Vernor, as executor to Mr. David Calderwood, charges George Allan to pay a part of the defunct's stipend, as he who intromitted with the teinds of the lands liable therefor, whereupon he had obtained decret. The suspender alleged, That the decret was in absence; and any intromission he had was only as a merchant, having bought from Sir Alexander Auchmutty, the heritor, to whom he made payment *bona fide*, before any arrestment or pursuit against him. The charger answered, *Non relevat*, because the suspender is obliged to know that, by law, the teinds are liable for the minister's stipend; *2dly*, He offers him to prove, that the suspender did not make his bargain for so many bolls of victual; but that he took disposition of the corns *ipsa corpora*, before they were drawn.

The Lords found the answer relevant to elide the reason, and found the defender liable for the tenth part of the corns he bought.

*Fol. Dic. v. 2. p. 394. Stair, v. 1. p. 112.*

1663. June 24. MENZIES *against* LAIRD GLENURCHY.

No. 9.

Stipend found not to burden an heritor, where there is a life-renter living.

The daughters of Mr. William Menzies, as executrixes to him, pursue Glenurchy for payment of a bond due to their father, he alleged minority and lesion, and that he had reduction thereupon depending. The pursuer answered, No lesion, because this bond being granted to their father, for his stipend, by the defender, who was heritor of the land, he was not lesed, because, as heritor, he was liable for the stipend. The defender answered, That his being heritor could not oblige him, because his grandfather was then living, whose life-rent was reserved in his disposition; who, and the intromitters, could only be liable, stipends not being *debita fundi*; and it were of very evil consequence, if the heritor were liable, during the whole life of a life-renter.

The Lords found, That there being a life-renter, the heritor was not liable, and therefore sustained the reason.

*Fol. Dic. v. 2. p. 394. Stair, v. 1. p. 193.*

No. 10.

A stipend found to affect the whole teinds unbought, where there was no locality.

1664. December 8. MR. JAMES HUTCHESON *against* EARL of CASSILLIS.

Mr. James Hutcheson having charged the Earl of Cassillis for his stipend, the Earl suspends, and alleges, *first*, That the charger had no right to the Whitsunday term, 1663, because that term was past before his presentation, at least before his institution and collation; *2dly*, There being but a decret of modifica-