No. 24. The Lords thought not the difference material betwixt a reversion liquidated in the first contract, and one liquidated by a posterior deed; nor did they determine singly upon the point of trust, which was narrow, to continue the effect thereof in the person of the heir who acquired the reversion, the trust being personal *quoad fidem et diligentiam;* but also determined upon the general head of damage above urged, as if there had been no trust, and waved other points; but the Lords found, That wadsetters might acquire the right of reversion without communication. But here the heritable right was disponed irredeemably.

Harcarse, No. 1021. *p.* 290.

1681. *December* 21. HUME of Eccles *against* JEAN HUME.

No. 25.

Found, That a party who had a tack of parsonage teinds might acquire the right of the annuities from my Lord Loudoun without communication, the teinds not being set free of that legal imposition and burden.

Harcarse, No. 1022. *p.* 291.

1682. *January* 18. TRAQUAIR *against* SOUTHESK.

No. 26.
What rental to be the rule of accounting?

The Earl of Traquair having granted to the Earl of Southesk an infeftment of security in several lands for a great sum, containing an assignation to the rents, and power to enter to possession and uplift, upon being countable for his intromission over and above the annual-rent of the money, the Earl of Southesk was called to account; but the rental not being condescended on in the contract, the Lady Traquair produced a rental under the hand of one Burnet, factor to Southesk, the first year of his entry, of £10,296, another in the year 1659, under Southesk's hand, for £10,333, and other three rentals signed by Southesk to chamberlains, viz. one in the year 1674, for £6500, another in the year 1675, for £6900, and a third in the year 1676, for £8700. The question was, If the first rental should be the rule for all the years since Southesk's entry to possession, as in the case of apprisers, in regard, by the nature of the contract, he was liable to intromit from his entry?

The Lords found the first rental should be the rule till the year 1659, and the second rental of that year should be the rule till the year 1674, and the next three rentals for the respective years 1674, 1675, 1676; and that the last rental in the year 1676 should be the rule in all time thereafter, unless Southesk could instruct a reason for abating of the rental. The speciality in this case was, That the lands were grass-rooms, that are not let in tack, but from year to year, so that the rent was subject to variation.

Harcarse, No. 1023. *p.* 291.