No. 51. *ab initio*, it could not emerge, or become due by the subsequent grant of a tack without any new law; besides, the tacksman's possession is her Majesty's possession. Again, there is a manifest disparity betwixt teinds of the Queen's property when the annuity was imposed, which could not be burdened with it, and teinds which, being once liable to annuity, fell afterwards in the sovereign's hands by forfeiture, bastardy, *ultimus hæres*, &c. And yet even inthese, the property would absorb the inferior right of annuity. 2*do*, It is not material to allege, that the Queen's teinds bear a share of publick burdens; for the annuity and supply are differently counted for in Exchequer, and differently applied. The supply is not granted to the Queen to be disposed of as the patrimony of the Crown, but for certain special public uses; upon which account her Majesty's proper lands bear a proportion with the rest of the shire.

The Lords found, that the King having right to annuities, and to the suspender's teinds, the time of the acts of Parliament 1633; the annuity could not burden these teinds; notwithstanding that the King had right to the annuities *jure coronæ*, and to the said teinds *jure privato*.

Forbes. p. 239.

1721. *November* 22.

HAY of Drumelzier *against* SIR JOHN HOME of Blackadder.

No. 52.

Parsonage teind may be purchased by the heritor, as well while they are in tack as where they are in the possession of the patron. See APPENDIX.

Fol. Dic. v. 2. *p.* 443.

1724. *February* 28.

The MINISTER and KIRK SESSION of NORTH LEITH *against* JAMES LAW of Hillhousefield.

No. 53.
Teind found payable at the rate of the highest fiars.

The pursuers, as having right to the teinds of Hillhousefield, which, by a decree of valuation, in the year 1631, were ascertained to seventeen bolls and a half of bear, insisted against Mr. Law for payment of the teind-duty since the year 1704, at the rate of the highest fiars.

It was pleaded for the defender: 1*mo*, That though *per errorem* he had paid those teinds till the year 1704, yet, having then discovered that he had an heritable right to them, upon which he was infeft, and which was intimated to the pursuers, he refused to make any further payments; and they had not, since that time till now, claimed these teinds; he was therefore entitled to the benefit of a possessory judgment.

2*do*, Though he were liable for the teinds, yet they could not be rated at the highest, but at the Commissary or second fiars; which are looked upon as the standing rule for Ministers' stipends, and teinds payable in victuals.