

of reduction of the defender's right; because, albeit the pursuer be assigned to the debt, yet he is not expressly assigned to the inhibition. *Answered*, that the extract under the pursuer's own hand was sufficient, he having extracted the same *ex officio*, as being clerk, and if he has taken out a wrong extract, he is liable for malversation. And farther, to instruct that it is a true extract, there is another extract produced under the clerk-depute's hand; and albeit the pursuer be not assigned to it *per expressum*, yet he being assigned to the debt, and to the bond, and to all right, title, and interest, that the cedent had, it will carry a right to the inhibition, and all legal diligence that has followed upon the bond, as being accessory thereto. THE LORDS sustained the pursuer's title, although his assignation was only to the liferent, and did neither assign the inhibition *per expressum*, nor contained these general words, "with all that has followed thereupon." And found the extract of the inhibition, out of the books of the sheriffdom of Perth, under the hand of the pursuer's own depute, to be sufficient in the action of reduction, reserving improbation to the defender, as accords.

No 10.

*Sir P. Home, MS. v. I. No 80.*

1738. July 18.

MATTHIE *against* ADAM.

THE right of brewing is implied in a feu-charter, though not expressed; but, though the feuer may brew and vend in his own house, Whether he may provide the barony in ale to the disappointment of the baron's granting licences to other people? was a point here stated, but not determined.

No 11.

*Fol. Dic. v. 3. p. 297. Kilkerran, (CLAUDE.) No 1. p. 120.*

1748. July 5. DUNNING *against* The CREDITORS of Tilliboall.

HALLIDAY of Tilliboall disposed the lands of Briglands to Mr Alexander Dunning, minister at Abernethy, and he disposed them to Alexander his son, bookseller in Edinburgh, who was infest therein.

A ranking and sale was pursued of the barony of Tilliboall, in which Mr Dunning appeared, and craved to have his lands, with the teinds, struck out of the sale, as he was infest prior to the creditor's adjudication.

*Answered*, His lands must be struck out for the reason given, but he has no right to the teinds, much less is he infest therein, which therefore having remained with the disponent, were affected by the adjudication of his creditors.

*Replied*, A disposition of lands will carry the teinds, if by circumstances it appear to have been the intention of the parties, that they should be compre-

No 12.

Disposition of lands with an assignation of all tacks conveys the teinds of the lands disponed.