&c. Gregory denied the fact, but alleged not relevant unless he made it a trade, or 2*do*, if he were such yet he could not seize and detain the gun without suing for confiscation; 3*tio*, that Baird was only carrying another's gun for his use and that the gun was his. Replied, Killing for sale is the character of a common fowler, and in proof thereof the Judge should confiscate the gun to the defender who apprehended it, and that Gregory had not properly his property of the gun, and if he had, *non relevat*, since Baird a common fowler had the use of it. I reported the case, and the Lords repelled the reasons of advocation, and remitted the cause. *Renit.* Drummore, Haining, Strichen, Kilkerran, *et me*.—23d January 1753, Adhered.

GLEBE.

No. 1. 1734, Feb. 8. MR FARQUHAR BEATON *against* WILLIAM DALLAS.

THE Lords refused the bill.

No. 2. 1736, Nov. 9. MR MACKIE *against* WILLIAM NEILL.

THE Lords found that the glebe could not be in any manner feued, and therefore suspended the letters *simpliciter*.

No. 3. 1745, Jan. 3. MINISTER of KILWINNING *against* GLASGOW.

THE question was anent the L.20 Scots payable to Ministers for their grass by the 21st act 1663. There were in this parish about 200 heritors of kirk-lands, and great disputes which was nearest the manse, and which nearest the glebe, and whether the lands nearest the manse or nearest the glebe are primarily liable; 2dly, Where the land nearest the manse or glebe are all arable whether the L.20 ought to be assessed only on the proprietor of those nearest lands or on the whole heritors of kirk-lands. In this case the Presbytery had laid the L.20 wholly on Glasgow, and he brought the question before us. Several of us thought that the L.20 Scots is due even when there are no kirk-lands; 2dly, That where the L.20 is due instead of grass, it ought not to be allocated allenarly on the heritors of the nearest lands but upon the whole heritors. Of this opinion were Arniston and Tinwald; and others thought the relief was only against heritors of kirk-lands, and therefore the L.20 should only be allocated upon the heritors of kirk-lands where there are such,—and of this opinion were the President and Kilkerran. And others of us thought, that where there were no kirk-lands there could neither be designation nor L.20 by the act 1663 whatever might be due by custom since the rescinded acts 1644 and 1649,—and of this opinion were the President and I. The Lords found all the heritors whether of kirk-lands or temporal lands liable, in which I did not vote, and the Court were much divided. The Court were much divided as to the second question proposed, whether by the act the heritors of temporal lands have relief of the heritors of kirk-lands, and argued

it long. They were much divided till I observed that that question could not properly be determined here betwixt the Minister and only one heritor;—and therefore we went no further, but suspended the decreet.

No. 4. 1751, June 15. STEEL *against* SIR WILLIAM DALRYMPLE.

IN a suspension of a decreet of Presbytery designing horses and cows grass, after many various proceedings and proofs, we remitted to the Lord President and Drummore to inspect and report with a plan, which they did, and altered part of the ground designed by the Presbytery, and substituted another piece of ground in place of it as more proper and more convenient to both; but a doubt was suggested whether this Court could make a split new designation, or if we should remit it to the Presbytery. But the President was clear we could make the designation, and we did so accordingly. We found no expense of process due, but found the decreet must be extracted on their joint expence.

No. 5. 1751, June 20. MINISTER of DUNFERMLINE *against* BLACK.

THIS was a suspension of a designation by the Presbytery of horse and cows grass to the Minister. The chief reasons of suspension were two, first that there were other kirk-lands nearer, 2dly that the lands designed were arable lands. A proof was allowed and this day advised, when it appeared that the lands of Craig-Coupar were indeed near, and more convenient for the Minister, but they were all arable lands except two pieces of ground that had been gardens, and a barn-yard, but the fences or dikes now in disrepair, which were for the most part in grass, but one of them sometimes laboured; but we did not think these were such grounds as were by the act intended for Ministers pasture grounds, and it also appeared that they were not sufficient without taking some arable lands. And as to the suspender's lands it appeared that there was one acre designed called the wet-acre, that was somewhat wet, and therefore not proper to be dunged, but was immemorially laboured, and left out in grass alternately, that is, three years in oats, and three or four years in grass, and other two roods and 21 falls designed that was in use to be dunged and sown with beer, peas, and oats, as the other land that they called Acredale, though also sometimes left out in grass as the wet-acre was; and we thought that in the construction of the act, those were arable lands, which could not on the one hand mean lands that could not at all be laboured, for there is scarce any such, nor 2dly could it only mean lands that were always in tillage, otherwise some of the best lands in Scotland would not in the sense of the act be arable; but we thought that the act meant lands that had not been laboured, and were not fit for it; therefore we suspended the letters *simpliciter*, reserving to the Minister to insist for his L.20.

GROUNDS AND WARRANTS.

No. 2. 1735, Nov. 7. GRAHAM *against* REID.

See Note of No. 1. *voce* ASSIGNATION.