

It would be hard that the pursuer's lands should be valued at a rent of which, from the length of the lease, he never can himself reap the benefit. No. 165.

Upon advising a petition, with answers, replies and duplies, the Lords sustained the objection, reserving to the pursuer to lead a new proof of the yearly value of the lands.

Act. Burnst.

Alt. Wm. Robertson.

Fac. Coll. No. 163. p. 374.

1796. December 14.

SIR HUGH MUNRO *against* The OFFICERS of STATE.

Sir Hugh Munro brought a valuation of teinds against the Officers of State. From the proof it appeared, that he allowed his tenants to dig peats out of a moss belonging to him, and that were he to deprive them of that privilege, they would give £.50 less yearly for their farms, for which sum he accordingly claimed a deduction from his rental.

The Lords unanimously repelled the claim.

Act. Geo. Ferguson.

Alt. Balfour.

R. D.

Fac. Coll. No. 8. p. 19.

1797. February 8.

The HERITORS of Blairgourie *against* The OFFICERS of STATE, and Others.

The teinds of the parish of Blairgourie were valued by the sub-commissioners in 1630. The Minister of the parish having afterwards brought a process of augmentation, the heritors, without taking notice of their valuations, agreed to pay him a much larger stipend than the amount of their valued teinds; and decree, of consent, was pronounced accordingly in 1650. The stipend thus settled had been paid ever since.

The Minister of the parish having brought another augmentation, the heritors raised an approbation of their sub-valuations, against the Officers of State, for the interest of the Crown, as joint patron of the parish, and against the other patron and the Minister, in which they declared their object to be, not to diminish the stipend formerly paid to the Minister, but to prevent any additional burden from being laid on their teinds.

The defenders objected: That the sub-valuations of the pursuers had been derelinquished, there being no distinction in principle, and none made in the decisions of the Court, between the effect of an excess of payment to the Minister and one to a lay titular, as the conduct of the heritors in both cases is to be ascribed to a conviction that their valuations were so defective that they could not

No. 166.

In a valuation of teinds, the proprietor is not entitled to a deduction from his rental on account of peats allowed by him to his tenants.

No. 167.

Dereliction of a sub-valuation inferred from an excess of payment to the Minister as well as to the titular.