

- No 12. day at five o'clock in the afternoon his predecessor was slain, *ita ut veri-similiter ejus notitia ad principem tam cito pervenire non potuerat*. Answered, That that rule and law of the Pope did not oblige the King's subjects, the Pope's jurisdiction being abrogated. The LORDS found, that the rule *de verisimili notitia* should have place, not for the authors of the law, *sed propter rationem legis, quæ est anima legis, viz. ne detur occasio captandi mortem alterius*.

Spottiswood, p. 187.

1610. February 22. HUNTER against CRICHTON.

No 13.

IN an action of reduction of a tack set by James Blackwood, parson of Sanquhar, to the tutor of Sanquhar *contra* William Crichton of Eyhill, son and heir to the tutor, and against Robert, Lord Crichton, of Sanquhar, assignee to the said tack, which was desired to be reduced at the instance of Mr Robert Hunter, parson of the said kirk of Sanquhar, upon this reason, that James Blackwood, setter thereof, was lawfully deprived in 1577, it was found by the LORDS, That the reasons of reduction were relevant to reduce the said tack, notwithstanding it was answered thereto, that the time of the said deprivation, the kirk had no power to deprive, but *ab officio* allenary, and not *a beneficio*, and that the warrants of deprivation *et ab officio et a beneficio* was long after the date of the said tack, viz. in *anno 1584 et 1594*, which is expressly extended *ad præterita*, and in respect that James Johnston, setter thereof, was deceased long before the intending of the cause.

Kerse, MS. fol. 40.

1611. January 23. RAMSAY against MAXWELL.

No 14.

HE who obtained a tack of vicarage teinds, not apprehending possession by virtue thereof before the demission of the benefice by the setters, if he who is thereafter provided obtain peaceable possession many years, the tacksman will not be habile to controvert with him, if his tack apprehended not possession.

Fol. Dic. v. 1. p. 528. Haddington, MS. No 2113.

1612. January 9. HOME against HOME.

No 15.

IN the action of spuilzie of teind-sheaves, pursued by Sir John Home of Huttonhall against Robert Home, it was found that a tack of teinds set by Mr Thomas Ogilvie parson of Dunglas, to Sir John Home, his entry thereto to be at the day of the said Thomas his decease, was null, as conferred *in tempus indebitum*; and when Huttonhall *replied*, that the successor to the bene-

office had ratified his tack, and set him a new tack, it was *answered*, That all that was done after the inhibition, and so he not having a valid title the time of the inhibition, he could have no action of spuilzie for that year.

No 15.

Fol. Dic. v. 1. p. 528. Haddington, MS. No 2347.

1614. *June.*HEWIT *against* EARL of CASSILIS.

IN a reduction of a tack of the _____ of _____ pursued by Mr Patrick Hewit *contra* the Earl of Casillis, upon this reason, that the tacks wanted the common seal of the convent, the matter being disputed, the LORDS were loath to decide, and so the whole was referred to the Bishop of Glasgow by both parties. In this case, there was alleged a practice betwixt the Laird of _____ and the parishioners of _____ dated in 1589, but there the tack wanted also the convent, because there was none.

No 16.

Kerse, MS. fol. 40.

1616. *July 12.*L. of DRUMLANRIG *against* The Lo. of CONHILL and Others.

IN an action betwixt the Bishop of St Andrews and the parishioners of Kilwinning, the LORDS minded to find, that the abbacie of Kilwinning might be dissolved *sede vacante* by his Majesty without consent of the Parliament, but thereafter it was recalled in an action of reduction pursued by the L. of Drumlanrig *contra* the Lo. of Conhill and Others, tacksmen of Carlaverock, for reduction of a tack set by the Provost of Lincluden, the LORDS found, that a provostrie was not a prelacy, and therefore found the tack null, because it was not set with consent of the patron conform to the act of Parliament made *in anno 1594.*

No 17.

Kerse, MS. fol. 40.

1622. *March 14.* MAXWELL *against* DRUMLANRIG.

IN an action of reduction pursued by Edward Maxwell of the Hills against the Laird of Drumlanrig, the LORDS found, that a tack of teinds set by a provost of a college kirk having a chapter of prebendaries, was not lawful if it had not the consent of the most part of the prebendaries; so as if there were six prebendaries, there behoved to be four consenters to the Provost and to his deed. It was also found, that albeit there were prebendaries who were minors or furth of the country, *animo remanendi*, that the want of their consent did not invalid the tack, unless the minors were of 14 years of age complete, otherwise their

No 18.