

No. 207.

Tacit relocation of a tack of teinds found to support the possession for more years than the person who had granted the tack could have validly let them.

1663. *January 16.* EARL OF ERROL *against* PARISHIONERS OF URY.

The Earl of Roxburgh pursues the heritors for the teind, from 1648 till 1662, as he who had right during that time, by the act of Parliament 1649, establishing the right of the teinds in the patron, in lieu of their patronage, and also as he who had tack thereof, and had since possessed by tacit relocation. The defender alleged, as to the first title, that the Parliament 1649 was not only annulled, but declared void *ab initio*, as a meeting without any authority. As to the tacit relocation, it could not extend any further than so many years as the beneficed person could set. It was answered for the Earl, That the rescissory act could not prejudice him, as to any thing anterior to its date, unless it had borne expressly to annul as to by-gones.

The Lords found the libel and reply relevant, as to by-gones before the act, albeit there be no *salvo* in that act, as there is in the rescissory acts of the remanent Parliaments; and found that the pursuer had right, *per tacitam relocationem*, till he was interrupted, even for years which the beneficed person could not validly set, as a life-renter's tack will be valid against the fee, *per tacitam relocationem*, after her death, though she could grant no tack validly after her death.

Fol. Dic. v. 2. p. 426. Stair, v. 1. p. 158.

No. 208.

1671. *February 22.* GORDON *against* M'CULLOCH.

A possessor after he was warned to remove, and even after decret of removing, having continued to sow the ground, it was found notwithstanding a spuilzie in the proprietor to meddle with the crop, though sown *mala fide*; but as for what was sown after he was dispossessed by letters of ejection, the Lords found these did belong to the proprietor, upon the principle that *sata cedunt solo*.

Fol. Dic. v. 2. p. 427.

* * This case is No. 4. p. 13400. *voce* RECOMPENCE.

1672. *November 19.*

The BISHOP of ARGYLE *against* JOHN WALKER his Commissary.

No. 209.

A renunciation of a tack will not take off the effect of tacit relo-

The Commissary having had a tack of the quots of testaments and whole casualties belonging to the late Bishop of Argyle, and after expiring of the tack, having continued to intromit during the time this present Bishop's decret was gotten against him, as being liable *per tacitam relocationem*, after which decret the