

1585. February. WARDLAW against OTTERBURN.

There was one Mr. Samuel Wardlaw that pursued Alexander Otterburn for the spoliation of certain teind-sheaves pertaining to him as tacksman. It was answered by the defender, That he had tack and assedation of the said teind-sheaves. It was replied, That the pursuer had obtained a former tack, and had served inhibition upon the same, and therefore ought to be preferred to the posterior tack. It was answered, That albeit the pursuer had the first tack, and had raised the first inhibition, yet the defender was first in real and natural possession of the intromitting with the said teind-sheaves, and so ought to be preferred to the possession acquired by the inhibition, which was but a civil possession. The Lords found, That the first tack and inhibition ought to be preferred, *et qui prior tempore potior de jure*.

Fol. Dic. v. 2. p. 420. Colvil MS. p. 403.

No. 92.

The first tack of teinds, with the first inhibition, was preferred to the second tack, altho' clothed with natural possession.

1611. January 22. FRASER against LA. PITSLIGO.

In an action of reduction of removing, pursued by James Fraser *contra* the La. of Pitsligo, upon a tack set to him by the La. of Philorth, his father, before Pitsligo's infestment, the Lords found, That this exception was relevant against the reason of reduction, viz. that the tack never took effect by possession before the alienation made to Pitsligo, but, by the contrary, in the alienation made by James Keith of Craig to Philorth of the same lands, the life-rent of himself and his lady was reserved, who bruiks the said lands at the time of the wadset made by Philorth to Pitsligo, likeas Philorth himself bruiked as tacksman to Pitsligo.

Fol. Dic. v. 2. p. 420. Kerse MS. p. 103.

No. 93.

A tack being let before alienation, was found null, in respect the tenant did not begin to possess till after the lands were sold, and the purchaser in-
left.

* * Haddington's report of this case is No. 27. p. 6425. *voce* IMPLIED DISCHARGE AND RENUNCIATION.

1620. December 6. SIR WILLIAM KER against The LO. RAMSAY.

Found, That a tack clad with long possession is relevant *in possessorio*, notwithstanding of another tack, which also apprehended possession in the person of the pursuer or his author.

Kerse MS. fol. 103.

No. 94.