

* * Auchinleck reports this case :

No. 8.

Mr. John Ross, assignee to the tack of teind-sheaves, set to Mr. James his father by umquhile John Ross, father to the said Mr. James, pursues William Blair for spuilzie of the said teind-sheaves. It is excepted, that the tack set to Mr. James is *locatio sine mercede*, in so far as the 22 merks are ordained to be paid for the duty of the tack are in that same tack discharged to him for his bairns part of gear. The Lords sustain the tack.

Auchinleck MS. p. 230.

1629. February 18.

PARSON OF KINKELL *against* EARL OF MARISHALL.

No. 9.

The Earl of Marishall being pursued by the Parson of Kinkell for reduction of a tack of his teind set by the parson's predecessors, upon this reason, that the tack wanted the subscription of so many of the Chapter as were requisite, which were condescended upon and alleged living the time of the setting of the tack ; it was alleged by the defender, that the pursuer behoved to prove, that the said persons were lawfully provided to the benefices, whereby they were members of the Chapter. It was replied, That it was sufficient to prove, that the said persons were reputed and holden lawful titulars of the said benefice, and in use to subscribe the like as members of the Chapter ; which reply the Lords found relevant.

Auchinleck MS. p. 232.

1629. March 29.

A. *against* B.

No. 10.

A tack set by the College of Aberdeen of a part of the Dourie, is sought to be reduced for want of the consent of the Chapter. It is alleged by the tacksman, that seeing the Dourie was mortified by the King to the College, it became of the nature of the rest of the College rents, and might as well be set in tack by the members of the College without consent of the Chapter, as the rest of the College rents. The Lords repelled the allegiance, and found the mortification of it could not change the nature of the Dourie, except it had been *per expressum* that the College had power to set tacks thereof without consent of the Chapter.

Auchinleck MS. p. 233.

No. 11.

Consequence
when no term
of entry is
expressed.

1629. December 4.

OLIPHANT *against* GILBERT.

Mr. William Oliphant pursues ——— Gilbert for spuilzie of his teind crop 1628 of Strawbrock, whereunto Mr. William is made assignee for the life-time of