

1629. *March* 18. CAPRINGTON *against* CRAWFURD.

No. 237.

The Laird of Caprington being tacksman of the half teind of the parish of _____, and Mr. Matthew Crawford, tackman of the other half of the teind of the said parish, either of them had been in use to uplift the teind of so many rouns as extended to their half. Caprington serves inhibition and pursues inhibition against Mr. Matthew's tenants for his half-teind, conform to his tack. Mr. Matthew defends himself by his tack of the other half-teind and possession of the hail teind of such lands as were equivalent to his half of the parish. The allegiance was found relevant, except Caprington would allege that Mr. Matthew bruiked more than his half.

Auchinleck MS. p. 232.

1670. *February* 18. KER *against* The MARQUIS of DOUGLAS.

No. 238.

In a spuilzie of teinds pursued at Ker's instance against the Marquis of Douglas, upon an inhibition served at the kirk-door of the parish where the lands lay, it was alleged, That the defender being in possession of the teinds *per tacitam relocationem* after expiring of his tack, the inhibition should have been executed against him personally, or at his dwelling-place, he not dwelling within the parish at the time of the execution at the kirk-door. The Lords did repel the allegiance, and sustained the pursuit.

Fol. Dic. v. 2. p. 429. Gosford MS. p. 106.

1673. *June* 10. LADY STRANAVER *against* RENTON.

No. 239.

It was found a good defence against an inhibition of teinds for one year, that a part of the crop was led before it was executed.

The Lady Stranaver being provided by the Earl of Angus, her first husband, to the teinds of some lands belonging to Renton of Billie, did use inhibition in August 1668, and pursued for a spuilzie of the teinds of the crop 1668, 1669, and 1670, and obtained decret in the absence and sickness of the defender's advocate; whereupon the defender was reponed, and alleged, that he could be only liable for the old tack-duty, though his tack was expired, because he bruiked *per tacitam relocationem*, which was not interrupted by the inhibition as to the crop 1668, because a part of the crop was led and stacked before the inhibition, and yet sentence is taken for the whole crop; and unless the inhibition had been executed before the leading, it was not *debito tempore*, and so is null; *2do*, The inhibition executed *in anno* 1668, though it had been formal, and might interrupt tacit relocation, yet it could not infer a spuilzie of the crop 1669, unless it had been renewed before the leading of that crop; but the most it could work, was to make the defender liable for the fifth of the rent for teind, according to the King's ease, and not for the tenth part of the crop; *3tio*, The defender raised a process for valuation of his teind before the Commission, and obtained of them