

nunciation : and ordained the decret against him to be of the date of the first pronouncing ; that so they might, at least *quoad* him, be within year and day, of the first adjudger. *Vol. I. Page 431.*

1686. *November 27.* The EARL of CASSILIS *against* MONTGOMERY of LAINSHAW.

THERE is a competition between two tacks of teinds discussed. The late Bishop of Galloway sets a tack, to Montgomery of Lainshaw, of his teinds, when a former tack had two or three years yet to run, and gave up and cancelled the former tack. The Earl of Cassilis, after the out-running of the years of the former tack, gets a new one, and quarrels Lainshaw's tack, as set by anticipation ; which is a lesion and dilapidation of the benefice, to the prejudice of the successor.

The Lords sustained the tack, though set when the other was not expired ; seeing it was not set to begin when the other should expire, but commenced presently, without relation to it ; and that the Bishop who set it continued Bishop when the other was expired, when he might have set it ; and that the succeeding Bishops may do the same. But if a Bishop, when he is to be transported, should, *per universalem aversionem*, renew all his tacks, this would look like fraud and design. But the anticipating one tack will not amount to this.

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1685 and 1686. LADY BANFF *against* LORD BANFF.

1685. *February 5.*—THE Lady Banff gave in a complaint against her husband, that he refused to cohabit with her, and therefore craving an aliment might be modified to her.

He was jealous of her being disloyal to him with one Leslie, sheriff-clerk of Banff.

The Lords referred the consideration of this business to a committee ; who having given in their report, on the 17th February, the Privy Council modified to her 2000 merks a-year, with certification, if it were not punctually paid to her termly, it should be doubled ; and ordained the husband to aliment the children himself. He reclaimed much against this, his estate being low.

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1686. *December 1.*—THE cause of the Lord and Lady Banff being reported ; the Lords preferred her to her aliment, though he offered to entertain her in his own house, and was pursuing an adherence before the Commissaries of Edinburgh ; for the Lords found she was not bound to adhere, seeing the ground of the Secret Council's decret, modifying to her 1200 merks of aliment, as mentioned 5th February 1685, was because of his atrocious cruelty to her ; and this decret was yet standing unreduced.

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