

A herezeld is not a casualty incident to a feudal holding; it was originally due only in the case of a tenant at will dying in possession of a farm; and, by acceptance of it, the master is bound to continue the widow and children of the tenant deceased in possession of the farm, for another year, on the same terms.

HIGHWAYS.

1770. November 23. *MUIRHEAD, &c. against SPOTTISWOOD of DUNNIPACE.*

SPOTTISWOOD of *Dunnipace* having, by authority of the Justices of Peace of the county of *Stirling*, instead of an old road, very bad and inconvenient in many respects, which he shut up, made and opened a new road, in which alteration the country not only acquiesced, but many of the heritors greatly approved:—In a reduction of this decret and order of the Justices, as turning about the road more than 200 ells, and being *ultra vires* of the Justices, the Lords, (23d November 1770,) found, “That, by the long acquiescence and repeated acts of homologation on the part of the pursuers, they are barred from the reduction; therefore repelled the reasons of reduction, and assoilyied the defender, and found expenses due.”

See also the case of *Archbishop of York, &c. against Haldane*, in which the Lords pronounced a similar interlocutor.

In the case of *Spottiswood*, it was maintained, that kirk-roads do not fall under the jurisdiction of the Justices. The proceedings of the Justices were known in the 1758. The reduction was brought 1767.

HOMOLOGATION.

In a case, January 1686, *Erskine*, observed in the *Dict.*, Vol. I. p. 382, the Lords found, That one upon death-bed having executed a bond of provision to his younger children, payment by the heir to some of the children was a homologation as to the rest.

The like judgment was given, *Steel against Steel*, decided in January 1774.