

ALLEGED, That that act was totally in desuetude, and tacks subjoined to wadsets have constantly been reputed valid notwithstanding that act of Parliament. ANSWER, Though persons have bruiked tacks without controlment past memory of man, yet the act of Parliament standing unrepealed, and it never having been questioned if sic tacks were valid or not; unless it were alleged, That by former decisions *in foro contradictorio* tacks of this kind were sustained, there is no reason why the act of Parliament should not be kept, considering the equity and justice of it.

The Lords reduced the tack and revived the force of that old act of Parliament. Which was well decided.

*Act.* Lockhart.

*Alt.* Maxwell.

*Advocates' MS. folio 55.*

1666. *February 15.* LORD BORTHWICK *against* \_\_\_\_\_

IN this case of my Lord Borthwick with some of his wadsetters, found, though by the act of debtor and creditor the wadsetter is bound to count for the duties of lands more nor pays him his annualrent, yet that the wadsetter is not bound thereto from the date of the act of Parliament, but from the time the debtor requires the creditor to accept of security for his money; at which time the creditor may declare himself either to retain his possession or to quit it. And found that paragraph of the act conditional.

*Item*, found a party could not renounce the benefit introduced in their favours by a public law, before the law was made.

*Act.* Cunyghame. *Alt.* Trotter.

*Advocates' MS. folio 56.*

1666. *February 15.* ALEXANDER *against* THOMAS COULL.

IN this case of Alexander and Thomas Coull, found, that where one is in possession of lands, though by a right thereafter reduced, yet that the possessor is not liable for the mails and duties but from the decret of reduction, and not from the time of the citation: though the decret bear the right to have been from the beginning, and in all time coming null; which is only *stilus curiæ*.

*Act.* Yeoman. *Alt.* Dinmuire.

*Advocates' MS. folio 56.*

1666. *June 20.* JEAN CUNYGHAME *against* CUNYGHAME of Robertland.

IN a case betwixt Jean Cunyghame, as donater to Sir David Cunyghame of Robertland's escheat and liferent, against this Robertland, found, That though Sir David had his wife and family in Scotland, yet being furth of the country,