

S E C T. IX.

Offer of Payment, if it stops incurring the Irritancy ?

1556. *May 14.* BISHOP of MURRAY *against* LAIRD of KINFAUNS.

No 100.

ANENT the action pursued by the Bishop of Murray against the Laird of Kinfauns, for reduction of a feu, for not-payment of the feu-mails, by the space required of the law, it was *alleged* by the said Laird, That he offered the said mail-duty to them having power to receive the same of the Bishop, being his chamberlain for the time. It was *alleged* by the said Bishop, That it was not enough to offer the mails, but it should have been consigned; which allegiance was repelled by the Lords, and found it was enough to offer the mails, without consignment.

Fol. Dic. v. 1. p. 491. Maitland, MS. p. 119.

. The like was decided 26th July, 1678, Powrie against Hunter,
No 145. p. 2685. *voce* COMPENSATION.

1595. *June 3.* BISHOP of DUNKELD *against* The LAIRD of ARDROSS.

No 101.

IN a cause betwixt the Bishop of Dunkeld and his wife against the Laird of Ardross, the LORDS found a back-tack, during the non-redemption of an annualrent, containing a clause irritant, in case of non-payment of the duty, to be null, in respect of non-payment at the terms set down in the contract; albeit they offered to prove real offer *debito tempore*, because they alleged not that they had consigned the silver.

Fol. Dic. v. 1. p. 491. Haddington, MS. No. 545.

1610. *July 18.* LORD TORPHICHEN *against* The LAIRD of PITFODDELS.

No 102.

MY LORD TORPHICHEN, and his curators, having disposed to the Laird of Pitfoddels the barony of _____ in feu farm, for the yearly payment of four score and nine pounds of feu farm, with a clause irritant, bearing these words, "Proviso tamen quod si duo termini currant in tertium, solutione minus facta, legitima requisitione prius facta, &c. tunc, et in eo casu," &c.; conform to the which provision, my Lord Torphichen sent his procurator to Aberdeen to Pitfoddels, who, before Whitsunday 1609, required him to make payment of the feu-mails 1608. Pitfoddels offered the mails to the procurator, and took instruments thereupon. Thereafter, my Lord of Torphichen intented sum-

A feu being granted, with a clause irritant, it was found not sufficient to offer payment to the procurator, who made requisition; but that the clause irritant was incurred, unless