

1614. November. LORD MADERTIE *against* HIS VASSALS.

No 277.

IN a reduction pursued by my Lord Madertie against one of his feuars for reduction of his feu for not payment of the feu-duties, the LORDS found, That the exception *quod minor non tenetur placitare*, &c. was not competent in a reduction of this nature, *et quod mora non erat purgabilis* by offer after the terms past, and the failzie incurred; they found also, that a chamberlain may not receive these duties after the failzie incurred without express warrant.

Fol. Dic. v. 2. p. 159. Haddington, MS. No 2578.

1627. February 8. EARL OF CASSILLIS *against* HIS TENANTS.

No 278.

IN a removing of the Earl of Cassillis against his Tenants, *alleged* by them, That since the warning, they had made payment of some customs and services to the Earl's factors and chamberlains, which were applied to his use. Found not relevant, unless it had been by his knowledge, command, or allowance.

Sicklike in a spuilzie of teinds, payment of any part of them at direction of the chamberlain, not relevant to purge the spuilzie, inhibition once being served.

Fol. Dic. v. 2. p. 159. Spottiswood, (REMOVING.) p. 279.

* * A similar decision was pronounced 5th March 1629, Lord Lee against Kirkwood, No 26. p. 7195, *voce* IRRITANCY.

1628. Februury 22. LORD LOUDON *against* PARISHIONERS of Killimuir.

No 279.

IN a spuilzie of the Lord Loudon against the Parishioners of Killimuir, the LORDS found the payment of the King's taxation, imposed upon the teinds libelled, made by the defenders for the crop libelled, to the pursuer's chamberlain, who was his chamberlain and receiver of his rents that year libelled, and diverse years before, and who continued yet his chamberlain, and which chamberlain had paid to the King's collector, for the pursuer, the same year's taxation for these teinds, to be sufficient to liberate the excipients, who had so paid to the chamberlain the duty imposed upon the said teinds, for the taxation, as said is, from all spuilzie of that year, notwithstanding of the preceding inhibition, used against the defenders before any payment made by them to the pursuer's chamberlain of the said taxation; in respect whereof, and that the pursuer *replied*, That no deed of the chamberlains could prejudice the force of his inhibition, except the pursuer had given express warrant for the said receipts from the defenders, or that the chamberlain had given up his accounts

In a spuilzie of teinds, found sufficient to liberate from spuilzie and wrongous intromission, that the defender had made payment of the King's taxation imposed upon teinds to the pursuer's chamberlain, who had paid it to the King's collector, tho' the pursuer had before served inhibition.