

T A C K.

S E C T. I.

Subject-Matter and Nature of Tacks.

1575. June 7. GRANGE DURHAM against HIS BROTHER'S RELICT.

The Laird of Grange Durham, in Angus, heir to his umquhile brother, pursued N. Inglis his brother's wife, to remove forth of part of the dwelling place of Grange. The defender alleged, that she should not remove therefrom, because her umquhile husband had disposed and set to her without payment of any mail, the said part of the said place, for all the days of her life-time, and to that effect produced a letter of tack subscribed with his hand. The pursuer alleged, that the letter produced could not save her unremoved, without it had contained a duty yearly to have been paid; therefore, also, it could not be called a disposition, because all dispositions of life-rent given *titulo lucrativo*, require a sasine, which the defender has not, and therefore she should remove: Which allegiance of the pursuer was admitted by the Lords.

Fol. Dic. v. 2. p. 417. Colvil MS. p. 247.

1591. June. MELLERSTAINS against HAITLIE.

The Laird of Mellerstains set tack and assedation to one Mark Haitlie of certain husband lands, and there was no certain duty expressed in the tack, but that the said Laird confessed that he had received for the same a great sum of money for certain years, and so discharged the said Mark of the same. It was alleged against the tack, that it could give no action, because it was null of the law, viz. locatio et conductio sine certa mercede; because of the law, sicut pretium est de substantia emptionis et venditionis, ita merces locationis et conductionis, propter duorum con-

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No. 1.
A life-rent tack by a husband to his wife, reduced, because it contained no tack-duty.

No. 2.
A tack, through let sine certa mercede, yet was found to subsist till reduced by way of action, because the