

No 63.

purgeable; but this case being betwixt the representatives of a college and singular successors, to the lands of Thorntoun, who were tacksmen, and that the whole barony was now divided amongst the heritors, whose several proportions and quots were never yet determined, they found, That the offer of full payment was yet receivable, if it were really performed within a few days, and that it ought to be done by all the defenders, or some of them, if they could not agree upon their several proportions; as also they found, that they were liable for the double of the tack-duties, notwithstanding of any offer now made, there being so many years deficient, and so for bygones were liable to the double of the tack-duty.—It being further *alleged*, That the first tack being expired in *anno* 1617, and that they possessed by virtue of an act of prorogation of the committee of platt, which was a decret of Parliament, and did bear neither clause irritant nor double of the tack-duty;—it was *answered*, That the decret of prorogation did not extinguish the same; so that the granters of the tack ought to have the benefit of all years therein contained, during the whole years of the prorogation.

*Gosford, MS. No 779. p. 488.*

1682. November.

PHIN against PHIN.

No 64.

THE LORDS sustained a declarator for finding a tack null, *ob non solutum canonem*, although the tack wanted a clause irritant, unless the tacksmen would purge by payment of the tack-duty betwixt and a certain day, and find caution for payment thereof in time coming.

*Fol. Dic. v. 1. p. 488. Sir P. Home, MS.*

\*.\* This case is printed by mistake, No 288. p. 6076.  
*voce* HUSBAND and WIFE.

No 65.

1683. November 29.

DICK against —.

A LEGAL irritancy of a tack, *ob non solutum canonem*, found purgeable at the bar, or before extracting, by payment of the bygone tack-duties.

*Fol. Dic. v. 1. p. 489. Fountainhall.*

\*.\* This case is No 14. p. 7184.

The like was decided, 29th January 1729, Duke of Roxburgh against Ke.  
See APPENDIX.