

1713. July 10.

JEAN CRAWFORD, Relict of James Crawford, Son to the Laird of Ardmillan,  
against JOHN KENNEDY of Baltersan.

No 285.

JEAN CRAWFORD having right by progress to some tacks set by the Bishop of Dumblain to the deceased Kennedy of Baltersan, of the teinds of his lands, pursued John Kennedy now of Baltersan, as heir to the defunct his father, for payment of 16 years tack-teind-duties; during which time, it was proved, that he the defunct was heritor of, and possessed the lands. THE LORDS found the defender liable for these teind-duties, albeit it was not proved that he was in the natural possession, or that he received a joint duty for stock and teind; in respect it is presumed, that he intromitted with the whole rents comprehending both stock and teind; seeing it is not alleged that any other person uplifted the teind.

*Eol. Dic. v. 2. p. 160. Forbes, p. 702.*

## SECT. II.

## Possession of Moveables presumes Property.

1624. November 24. TURNBUL against KER of Cavers.

IN an action of spuilzie at the instance of Turnbull of Symington against Ker of Cavers, for spuilziation of certain kine and oxen, which was restricted to wrongous intromission, the LORDS found an exception proponed for the defender relevant to elide the action, founded upon a pointing from the Laird of Bedrule, the defender's debtor, of the goods libelled, off his ground; and that the said goods were in the Laird of Bedrule's possession divers years before the pointing, and, at that time, used by him as his goods, by working of them, and milking of the kine, and that the young goods were bred upon the said lands, being the increase of the said old goods. This exception was found relevant, albeit it was both specially libelled, and also *replied* for the pursuer, That the goods libelled properly belonged to himself, and were bred by him upon his own proper lands of Symington, and there used by him at his pleasure; and thereafter the same were put by him in grazing to Bedrule, upon the lands libelled, out of the which the same were alleged to be taken and pointed, upon

No 286.

Found, in an action of spuilzie, that goods remaining in the possession of a person, and used by him in all respects, are to be presumed his property.