

1804. *December 19.*CARRICK *against* The COLLEGE OF GLASGOW.**No. 174.**

A proprietor may value the teinds of his lands at a fifth part of the rent paid by the tenants, on tacit relocation, after the expiry of their leases.

Robert Carrick raised a process of valuation of the teinds of certain lands in the parish of East Monkland, of which the College of Glasgow were titular. These lands had been several years out of lease, and the tenants possessed them by tacit relocation. A proof was led for ascertaining the yearly value of the subjects, from which it appeared, that the lands would let at a great increase of rent, upon a lease of the ordinary duration. But the pursuer contended, that he was entitled to hold the rent paid by the tenants, which was the old rent at which they were let 20 or 30 years ago, as the rule of valuation; and the Court, 21st November, 1804, found, "That the rent payable by the tenants on tacit relocation, must be the rule for valuing the teinds."

Against this interlocutor the College presented a reclaiming petition, and

Pleaded: The act of Parliament of Charles I. Cap. 19. declares, that the rate of teind shall be valued at "the fifth part of the constant rent which ilk land pays." Where there is a subsisting lease, the yearly rent stipulated in it must regulate the value of the teinds. But when the lands are not let, the valuation of the teinds must be ascertained by what the lands are truly worth, and what they would let for on a tack of the ordinary endurance; Ersk. B. 2. Tit. 10. § 32. The mode, however, resorted to by the pursuer in this case, does not ascertain the constant yearly value of the lands now, but only such as it was at the commencement of those leases which expired several years ago.

The petition was refused, without answers.

Act. Hay. Agent, T. Adair, W. S. Alt. Colquhoun, Jardine. Agent, P. Wishart, W. S. J. Fac. Coll. No. 192. p. 432.

Use of Payment of a stated Duty in place of Teind; See TACK.

Stipend *debitum decimarum*; See STIPEND.

Tacit Relocation of Teinds; See TACK.

Prescriptive Right to Teinds; See PRESCRIPTION.

See Mitchell against Baillie, No. 46. p. 7820.

See Muir against Heritors of Dunlop, No. 100. p. 10822.

See BONA ET MALA FIDES.

See JURISDICTION.

See APPENDIX.