

No 275. 1725. July 20. CAMPBELL *against* CREDITORS of the Equivalent.

JAMES CAMPBELL of London, merchant, got a commission in name of the Creditors of the equivalent, signed by a great number of them, to manage their affairs at London, for which he was to have five *per cent.* of the equivalent debentures. Having managed their affairs successfully, he got payment from a great number, the rest he brought a process against upon this medium, That having got a commission from many of the creditors on the equivalent to act as agent for the creditors in general, and having prosecuted that agency, in a public open manner, before the Parliament, where every man is understood to be present, and given an account of his management from time to time to such of the creditors as pleased to think of that matter, either here, or at London, not only those who were present at meetings, but also those who did not assent, but acquiesced and reaped the benefit, must be understood to have acceded to the commission, and so are bound in the same manner as those who signed it, *qui tacet consentiri videtur*; the LORDS found, That the Creditors on the equivalent, who did not expressly dissent when the pursuer did negotiate the affair of the equivalent before the Parliament were liable for the same quot of premium, as those who signed his commission.

Fol. Dic. v. 2. p. 159.

* * * This case is No 3. p. 9276.

SECT. IV.

Rent being paid to a Factor, whether the Landlord's consent is presumed, so as to infer his passing from Irritancies, &c.

No 276. 1582. January. A. *against* B.

THERE was a person called A. B. warned to flit and remove from certain lands. It was *alleged*, That he ought not to flit and remove, because the pursuer's wife had, since warning, received certain duties of the lands, she being in continual use, in times bygone, of receiving the same. To which it was *answered*, That the same was not relevant, except it were *alleged*, That it was done at the command of the husband, and that he had given his consent thereto *tanquam caput et sine cujus consensu nihil potuit uxor facere*. THE LORDS, notwithstanding of the reply, admitted the exception *licet bona pars dominorum in contraria fuerunt opinione*.