

SECT. VI.

Tacks contrived as Security for Debts.

1614. *March.* MR. CHARLES ROLLOCK *against* ———.

No. 104.

A tenant to George Barron of Kinnaird having lent to his Master 1200 merks, upon a bond, to possess his room while he was paid of his soume, with warrant to retain his farms in his own hand, during the not-payment of his soume; the room being thereafter comprised by Mr. Ch. Rollock from Kinnaird, and the tenant being warned to remove from his room, his defence, founded upon that bond of Kinnaird's, was not found relevant.

Fol. Dic. v. 2. p. 423. Haddington MS. No. 2562.

1621. *July 13.* L. MUCKAL *against* HIS TENANTS.

No. 105.

Found in conformity with the above.

In a removing, L. Muckall against his tenants, founded upon his sasine following upon a comprising from Philorth, first heritor of the lands, the Lords found, that a right set by the L. of Philorth to one of the defenders, before the comprising, of a part of the lands, for a certain sum then paid to Philorth, for the which he set to the excipient the said lands, to be instantly entered into, by the receiver of the right, and to be bruikèd ay and while the sum were repaid, and which was clad with possession continually; yet could not defend against Muckall the compriser, albeit it would have defended against Philorth; and therefore repelled the allegiance proponed thereupon.

Act. Peebles.

Alt. Baird.

Clerk, Gibson.

Fol. Dic. v. 2. p. 423. Durie, p. 2.

1621. *December 1.* PARTOUN *against* HIS TENANTS.

No. 106.

Found in conformity with the above.

A three year's tack, bearing this clause, "That forasmuch as I have borrowed from my said tenant the sum of 1000 merks, which I oblige me to repay within the space of the said three years; and if I failzie now as then, and then as now, I am content and consents that he bruik the same lands, ay and while the said sum be repaid;" was found by the Lords to be no tack or real right after the three years, to prejudice the singular successor; and this was so found, albeit the