

No 48.

1627. February 10. Mr JOHN ROSS *against* BLAIR of Tarsapp.

A TACK set to a man during his lifetime, and to his heirs indefinitely after him, for two or three ninetee~~n~~ years tacks, may be assigned by the principal tacksman to any body, if the assignee be not excluded *per expressum* in the first tack.

*Fol. Dic. v. 2. p. 75. Spottiswood, (TACKS and ASSEDATIONS.) p. 326.*

No 49.

1629. July 14. WARDS *against* BALCOOMIE.

AN excamber getting in his charter a clause of regress against the excambed lands, in case of eviction, to him and his heirs, without mentioning assignees, the clause was nevertheless extended in favour of a singular successor in the lands.

*Fol. Dic. v. 2. p. 76. Durie.*

\*.\* This case is No 3. p. 3678. *voce* EXCAMBION.

1627. March 27. L. WEST-NISBET *against* L. MORISTON.

No 50.  
A bond of annuity to a wife, granted by a third party, is not attachable by the husband's creditors. See No 44. p. 10365.

WEST-NISBET having arrested in Moriston's hands some yearly annuity, which, by decret-arbitral, he was obliged to pay to the Laird of East-Nisbet's wife and bairns, for their maintenance and entertainment, and desiring the same to be made furthcoming to him, for satisfying of a debt addebted to him by the Laird of East-Nisbet, and which he had paid as cautioner for him, seeing the moneys addebted by Moriston, albeit appointed to be paid to East-Nisbet, his debtor's wife and bairns, yet the same ought to satisfy the husband's debts who was living, and who was *dominus bonorum*, and whose money the same properly was; and the adjection of the payment to be made to his wife and bairns, done to prejudice the creditors, ought not to be allowed in their defraud; and it is more agreeable to reason, that he and his wife and bairns should want, than that the creditors, who were likely to want in his default for his debt, should be so defrauded.—THE LORDS found, that these sums being ordained to be paid for the sustentation and entertainment of the wife and bairns by that decret arbitral, which was not a decret given by the Lords of Session, but by friends, yet it could not be arrested for the husband's debt, but the same ought to be paid and converted to their aliment, and the sustentation of their life, as was destined in the said decret.

Act. Nisbet.

Alt. Mowat et Craig.

Clerk, Hay.

*Fol. Dic. v. 2. p. 76. Durie, p. 295.*