

1609. November 11.

DRUM against NIVEN.

No 2.
Found in
conformity
with the
above.

THE Laird of Drum pursued one Niven to remove. He *excepted*, That he was apparent heir to his umquhile father, who had tacks for terms to run. Drum *answered*, That the allegiance was irrelevant, unless he would say, that his father had a tack set to him, his heirs, and assignees. The matter being brought to interlocutor, and the Lords craving my opinion, I thought it necessary that the defender should condescend that the tack was set to his father and his heirs; or otherwise, I could not think that the tack could defend him, seeing many men set tacks of their lands to their tenants, respecting industrious persons, their tacksman, being a good labourer, and having sufficient plenishing, to the which they would not be content, that his heir, being minor, and unable and unskilful to labour, should succeed; or albeit he were minor, that he should succeed wanting permission; whereas his father's moveables were dispersed betwixt his father's relict and bairns: Which opinion the LORDS allowed.

Fol. Dic. v. 2. p. 73. Haddington, MS. No 1639.

1612. July.

A. against B.

No 3.

RENTALS of their own nature are not transmissible, and end by the decease of the giver, and also of the receiver, being *stricti juris*, unless the contrary be expressed. See APPENDIX.

Fol. Dic. v. 2. p. 73. Haddington, MS.

1623. December 17.

RELICT of the MINISTER of LIVINGSTON against PARISHIONERS.

No 4.

IN an action of the relict and bairns of _____, minister of Livingston, whereby the charges given at their instances, for payment of a year's stipend after the decease of the minister, conform to the order taken by the church in favours of the relict and bairns of the minister last deceased, were suspended; the LORDS found, that no such charges, neither for that year after the minister's decease, nor for any part of his stipend owing of terms preceding his decease, and which might belong to them, albeit executors confirmed to him, ought to be sustained, nor so summarily granted; and that there was no warrant to direct such letters and charges of horning, but that they ought to pursue therefore by ordinary pursuit.

Clerk, Gibson.

Fol. Dic. v. 2. p. 73. Durie, p. 93.