

No. 14. 1748, Feb. 11. CREDITORS OF AUCHINBRECK *against* M'LACHLAN.

SIR JAMES CAMPBELL in 1729 borrowed 4000 merks from M'Lachlan and gave him a tack of lands for five years and thereafter till the money were repaid, at 200 merks rent, and certain casualties of butter, wedders, poultry, &c. allowing him to retain the 200 merk in giving annually a discharge of annualrents. In 1739 the estate was sequestrated, but the tenant suffered to possess, and after Martinmas 1742 the factor took a Baron-court decree against M'Lachlan for the full rents; which he suspended; but it lay over till 1746, when the factor insisted on discussing the suspension. Kilkerran found the letters orderly proceeded; but we sustained the reason of suspension until he was interpellated by the decret; and suspended as to proceedings, but found him liable for rent crop 1743 and in time coming. Arniston was against the first part of the interlocutor, but after it was carried, he was for suspending also for the rents after the decret; and I own so was I against this last part and Minto. But as such of the Lords as spoke were for finding him liable from the interpellation, and differed as to the time, I who was in the chair put the question, Whether liable from the decret or not? and it carried liable.

No. 15. 1749, Nov. 24. HALY *against* SANDS.

A FARM of a minor was let by roup by the tutors, and Sands was preferred as highest offerer. He had signed his offer. But the articles of roup nor roup itself were not signed by either the infant or the tutor, or even the Judge, so that there was nothing in writing under their hands. One of the tutors acted as clerk. However Sands was put in possession. But Haly, one of the tutors, wanting the farm to himself, the tutors pursued a removing. The defence was on the roup. Reply, there was no written tack, therefore only good for one year. I own I had great difficulty. However the Lords sustained the defence upon the roup, and assoilzied from the removing, and found the pursuer liable in expenses, and that the pupil ought not to be charged with any of the expenses of the process.

No. 16. 1750, Nov. 28. JOHN WATSON *against* DAVID THOMSON.

THE question was, Whether a tack of a salt-pan for 15 years without mention of heirs, the tacksman dying during the tack, if it descends to his heir, his son? 2dly, The son continuing some years and paying the rent, whether the receiving the rent alters the case? As to the first sundry authorities are quoted against the heir, viz. two decisions quoted in Colvil, and Haddington, 2. Craigie Wallace, *Repertorium juris*, Dirleton, and Craig; on the other hand, Stewart. But this coming before us by a bill of suspension of a decret of removing against the heir, which two different Ordinaries had refused, we thought the question deserved more deliberate consideration, and therefore passed the bill.

No. 17. 1751, Jan. 4. WALLACE *against* CAMPBELL of Inverasraggan.

ARCHIBALD CAMPBELL in Inveraray having a tack of three nineteen years, built a house, which run him in several debts. His brother Inverasraggan was a considerable cre-