

No 1.

could not be compelled to make payment of his farms before Candlemas, so he could not, by his voluntary payment before the term, prejudice either creditors or his Majesty's donatar.

Fol. Dic. v. 2. p. 52. Haddington, MS. No 665.

No 2.

1611. *January 31.*WILSON *against* WARROCK.

A TENANT being called to make his farms furthcoming, as arrested for payment of his master's debt, will not be heard to defend himself by an alleged payment, made upon an assignation made by the master to pay a part of his duty as free mail, because it is not lawful, by private assignations betwixt the master and the tenant, for payment of mails or farms before the term, to prejudice the arrestments of lawful creditors of their just debts.

Fol. Dic. v. 2. p. 52. Haddington MS. No 2136.

No 3.

1628. *February 29.*LAIRD OF CLEGHORN *against* HIS FATHER'S TENANTS.

A DONATAR to a liferent having obtained a general declarator, and having arrested, in the rebel's tenant's hands, their mails and duties, pursues them for the same by a special declarator. The tenants *allege*, That they had paid the mails to their master before the arrestment. It was *replied*, Their payment before the term could not be allowed.—THE LORDS repelled the tenant's allegiance in respect of the reply.

Fol. Dic. v. 2. p. 52. Auchinleck, MS. p. 62.

* * * Durie reports this case :

In a special declarator of L. Cleghorn's liferent, at the L. of Lauchop's instance, donatar thereto, against the tenants of the rebel's lands, for payment of their farms, the years 1626 and 1627, which farms were arrested in their hands by the donatar long before the terms of payment, viz. before Martinmas the said years; and the defenders *alleging*, that they had advanced to their master the said farms, and satisfied him of the prices, convened betwixt him and them therefore, before hand, before the arrestment, which they alleged they might lawfully do, even before the terms of payment, he being then and of before their master, to whom they have been in use to pay their duties, and for whose supply and help in his necessities they might do the same lawfully at any time, nothing being done to hinder them when they transacted and made the said payment. This allegiance was repelled, and the payment advanced before the terms of payment was not sustained to liberate the tenants, seeing