

V I R T U A L.

SECT. I.

Virtual Assignation.

1628. *March 25.* LORD BLANTYRE *against* PARISHIONERS of BOTHWELL.

IN a case where the teind-sheaves payable by the respective heritors, were assigned by the tacksman in security and payment of a debt, this was only found a personal right, though clad with possession, and a posterior assignee to the tack itself was found preferable, as being the only real right.

No. 1.

Durie.

* * * This case is No. 37. p. 6434. *voce* IMPLIED DISCHARGE.

1629. *March 20.* L. FINMOUTH *against* WEEMS.

The Laird of Kinraig, in his son's contract of marriage, being obliged to infest his daughter-in-law in certain lands, and therein obliging himself to warrant these lands to her free of all teinds, except the payment of seven bolls of victual yearly, for these are the very words of the contract; the father-in-law being then tacksman of these teinds for payment of the said tack-duty, and, after the son's decease, the relict continuing divers years in possession of these lands and teinds for paying of this duty, the good-father being still in life; thereafter the good-father, in another contract of marriage of one of his daughters, for security of the sums promitted in tocher to his good-son, makes him assignee to his said tack of the said teinds; whereupon the relict foresaid of his son is pursued for the said teinds of the lands provided to her by her said contract of marriage; who opposing the foresaid clause of the contract, bearing her father-in-law to be obliged to warrant the said lands to her free of all teinds, except the said seven bolls, which she

No. 2.

A party warranted lands to be free of teind, This held to be a virtual assignation of a tack of the teinds.