

granted the same to be redeemed, and discharged the wadset, and confessed the payment of the sum, and took him only to the tack, which behoved to be respected, as if the annual-rent had been legally redeemed;—this allegiance was also repelled, seeing the annual-rent was never redeemed; after which redemption the tack was only appointed to take beginning; and the defender's granting of redemption could not be respected in his prejudice, who was singular successor, to make the tack have beginning, which was conferred to a time, which would never fall forth, seeing the wadset not being valid against this pursuer, the same would never be redeemed, being only personal, and so as he needed never know the wadset, no more could he be obliged to the tack; in respect whereof this exception was repelled.

No. 100.

Act. *Nicolson & Gilmor.*Alt. *Mowat & Gibson.*Clerk, *Scot.**Fol. Dic. v. 2. p. 420. Durie, p. 651.*1671. *June 21.*NEILSON *against* MENZIES.

No. 101.

One possessing by a tack, getting a new tack for a lesser tack-duty presently to commence, it was found, That he might ascribe his possession to the new tack, so as to prefer him to a singular successor.

*Fol. Dic. v. 2. p. 421. Stair.*

\* \* Gosford observes this decision differently, as if the second tack were a proration of the first, and to commence after expiry thereof.

See the particulars, No. 20. p. 7768. *voce* JUS SUPERVENIENS AUCTORI, &c.

1676. *February 24.*JOHNSTON *against* CULLEN.

No. 102.

A tack being granted by a husband, to another person, to the behoof his wife, to begin at the first term after the husband's decease, was not sustained against a singular successor; because the said tack was but a personal right, not being cald with possession, and the entry was conferred *in tempus indebitum*, to begin after the husband was denuded.

Found in conformity with  
*Hamilton v. Tenants,*  
No. 100.  
p. 15230.

*Fol. Dic. v. 2. p. 420. Dirleton, No. 346. p. 165.*

\* \* Stair reports this case:

Isabel Cullen pursues the tenants of some tenements in Aberdeen for mails and duties. Her title is a tack granted by her husband to a confident person, to her behoof, as appears by the tenor of the tack, being "to endure during her life;" and, by an assignation granted by the tacksman to her, the entry of which tack is