

No 34.

former situation. But such case is widely different from the present; and no argument can, with propriety, be drawn from the one to the other.

THE LORDS gave contrary judgments; but at last found, 'That the children of the marriage between the deceased Bryce Blair and Jean Scott, have right, during the life of their mother, to the excrescence of rents, after paying to her the liferent annuity of L. 30 Sterling, and that the same are not affectable by the creditors of the father.'

Lord Ordinary, *Kennet.*

For the Creditors, *Ilay Campbell, Elphinston.*

For the Children, *Rae, Wight.*

Clerk, *Home.*

*Fol. Dic. v. 3. p. 128. Fac. Col. No 62. p. 98.*

## S E C T. V.

Dubious Clauses.—Revocation of a Tailzie.—Liberty to contract Debts.—Conjunctly and Severally.—Just and Lawful Debts.—Liferent and Fee.—Back-Bond.—Importing Property or only Servitude.

1638. July 28.

FARQUHAR *against* M'KAIN.

No 35.

Parties were bound 'conjunctly and severally, ilk one for his own part.' This was interpreted to mean, that each was liable only for a half.

ONE Patrick Farquhar having charged James M'Kain for L. 700, conform to his bond, of this tenor, viz. bearing, 'That the said James M'Kain and John Gordon bind and oblige them, conjunctly and severally, to pay the said sum at the term contained in the bond, ilk one of them for their own part;' these were the very words, in respect of the which clause, terminating the prior words of 'conjunctly and severally,' and resolving in payment, ilk one of them of their own parts;—THE LORDS suspended the charges against M'Kain for the half of the sum, and found him only debtor of the one half thereof, and not of the whole.

*Durie, p. 861.*

1665. December 20.

SIR RORIE M'LAUD *against* WALTER YOUNG and JOHN GOVAN.

No 36.

A clause, dubious, interpreted against the writer.

WALTER YOUNG, JOHN GOVAN, and HENRY HOPE, by a letter written to any that they should buy cows from in the Highlands, desired that they might use the bearer of the letter kindly, and, for whatever quantity of cows they bought,