

JUS QUÆSITUM TERTIO.

SECT. I

Stipulations in favour of third parties.—Order to pay money to third parties.—Effect to the third party, of voidance of the right by which he had been favoured.

1591. December.

WOOD against MONCUR.

ROGER WOOD, some time of Craig, as liferenter, contracted with his son David Wood fiar, to excamb the lands of C. with the lands of D. and this excambion during their lifetimes; and, in the same contract, it was provided, that the tenants and possessors of the lands should not be removed, but all the space of their tacks, which they had for years to run, should be kept to them. After the decease of the said Roger and David, Wood of Craig, oye to the said Roger, and son to the said David, fiar, warned one David Moncur, tacksman of the lands of C, to flit and remove therefrom. *Answered*, That he ought not to remove; because he had tacks and assedations, for terms to run, set by his father; and, being heir to his father, behoved to warrant his tacks. It was *answered*, That if any tack he had, it was by virtue of the said contract of excambion, which being made but for the lifetime of the said two contractors, could not be extended to a third person, for the defender was not a contractor, nor no mention made of him in the contract. *Answered*, Albeit the defender was no contractor, yet there was a provision made in the same in his favours, that his tacks should be kept to him; and the pursuer being heir to his father, behoved to keep the same.—THE LORDS found, that the provision in the contract might be kept to the third person, and to the tacksman.

Fol. Dic. v. 1. p. 511. Colvil, MS. p. 465.

No r:
Provisions in
favour of a
third party
sustained,
although he
was ignorant
that such pro-
visions were
made.