

1629. *March 13.* PRINGLE *against* TENANTS.

No 19.

A TACK, although clad with possession, gives interest to pursue, although the tacksman produce not the setter's infestment. A hard decision.

Auchinleck, MS. p. 195.

1629. *November 28.* Lord RAMSAY *against* HOMES.

No 20.

MY Lord Ramsay as liferenter, and his son John as fiar of the barony of Idington, make warning to remove from the husband-lands of Hilton, being part and pertinent of the barony of Idington. The warning is made before Whitsunday 1628. The summons of removing is intented in my Lord Ramsay's own name, and his son's, in July 1628. My Lord Ramsay dies before the summons. The defender *alleges*, No process upon this warning, because my Lord, who had only power to warn the time of the warning, is dead. To which it was *answered*, The warning was both made at the instance of the fiar and liferenter; likewise, they both subscribed the warning, and the summons was raised in both their names. THE LORDS sustained the action, upon the summons and warning, for removing.

Auchinleck, MS. p. 195.

. Spottiswood reports this case :

A WARNING being made to the tenants of Idington by my Lord Ramsay, liferenter, and John Ramsay, his son, fiar of the said lands, in 1628, there was a summons of removing intented upon it. Before decret my Lord dieth, and his son, John, insisting afterwards in the same summons, it was *alleged*, That he could not by virtue of the former warning, at the time whereof he had no right himself to make warning, but only his father who was liferenter, and who now is dead. THE LORDS sustained the summons at John's instance, *ad hunc effectum*, that the defenders should be decerned to remove, but not the violent profits, which could not be due to him.

Spottiswood, (REMOVING.) p. 287.

. Durie's report of this case is No 11. p. 3173. *voce* DEATH.