

No 16.

1611. *January 11.* LADY CRAWFORDJOHN *against* LAIRD OF GLASPEN.

A MAN, denuded of the fee of a barony, with reservation of his own liferent, may resume and enter the heirs of his vassals, which will be lawful and sufficient to them; but he may not resume strangers, nor change the vassals and free tenants, neither may he thereafter set any tacks or rentals that may last longer than his lifetime.

Fol. Dic. v. 1. p. 549. Haddington, MS. No 2080.

No 17.

A liferenter, after the decease of another liferenter, whose liferent was reserved in this liferenter's right, pursued a tenant summarily to remove. Found entitled to continue possession till the next term.

1628. *February 16.* THOMSON *against* MERSTON.

IN a removing betwixt Thomson and Merston, wherein a liferenter of certain acres of lands in New-haven, after the decease of another liferenter, whose liferent was reserved in this pursuer's right, pursues the defender, without order of warning, as fiars are in use to do after the liferenter's decease, for making the ground void, that the pursuer may enter to the land;—the LORDS sustained the defender's exception to elide this pursuit, proponed upon his occupation of the land, as tenant to the liferenter deceased, albeit he was not tacksman to her, neither could prove him to be tenant to her, by writ; and albeit the pursuer replied, that the defender's possession was the deceased liferenter's possession, seeing he remained in house and family with her, and laboured the ground as her servant, and never was able to prove that he paid her any farm or duty for the ground. Notwithstanding whereof the exception was sustained, seeing the defender alleged, that his said possession was as her tenant, although he remained in the house with her, which he alleged became his house during his occupation, and that he paid farm for the land *hoc modo*, by converting of the profit of the land to her entertainment and maintenance; which the LORDS found sufficient to elide this pursuit against the defender, and to keep him from present removing; but the LORDS found, That the pursuer needed not to be put to a new warning, only they found that the defender might labour the land this present crop, without danger of violence, and that he should remove without warning after the separation of the crop from the ground, and that he should pay to the pursuer for the crop possessed by him, as much farm as such-like land is worth, and uses ordinarily to pay in farm; but that he ought not to remove, being closed betwixt terms, till after the term.

Act. ———.

Alt. *Sandilands.*Clerk, *Hay.**Durie, p. 346.*

* * * Auchinleck reports this case :

A LIFERENTER, who had her goodson in house with her six or seven years before her decease, who occupied certain acres of land wherein his mother-in-