

1629. July 10.

GATHEART *against* BLACK.

No 96.

A TACK being set upon the 14th of July for a year, the setter warns the tenants before Whitsunday. The tenants *allege* they cannot remove, because they held a tack not out-run the time of warning, and till after the term of Whitsunday before which they were warned; which allegiance the LORDS repelled, and found the warning good to compel them to remove after the 14th July, at which time his tack expired.

Auchinleck, MS. p. 195.

1631. June 15.

RAMSAY *against* WEIR.

No 97.
Found again
in confor-
mity to
Foulis *against*
—, No
94. P. 13555.

In a removing from a yard, conform to a warning made 40 days preceding Candlemas last bypast, wherein the defender *alleging*, That no process ought to be granted upon this warning libelled, because the same is made 40 days preceding Candlemas, to remove at Candlemas, whereas warnings at such terms have no warrant, but are against the act of Parliament anent warning of tenants to remove, which appoints the same to be done before Whitsunday;—and the pursuer *answering*, That this warning being only made from a yard, to remove therefrom, may well and lawfully be made before Candlemas, which is the proper time of labouring of yards; and such warnings from yards before Candlemas are allowed, and process granted thereupon before all inferior courts within this kingdom;—the LORDS found no process upon this warning, and that the same ought not to be sustained, seeing it was not made before the ordinary term of Whitsunday, to remove at Whitsunday, as use is in other warnings and removings.

Fal. Dic. v. 2. p. 337. Durie, p. 590.

* * Spottiswood reports this case:

ONE being warned 40 days before Candlemas to remove at that term from a yard in the Potter-row, the LORDS would not sustain the warning, in respect of the act of Parliament anent warnings 1555 ordaining them to be made before Whitsunday allenarly.

Spottiswood, (REMOVING.) p. 288.

1765. February 14.

JOHN M'NAUGHTON *against* JAMES WILSON.

No 98.
Where a house
and enclosure
were let as
one subject,
and for a rent.

By tack, dated 15th May 1760, Wilson let to M'Naughton, at L. 14. of rent, a house and park, for three years from his entry; which was declared,