

No. 25. Barron obtained a decret of removing against him before the Sheriff; upon which he was ejected.

In a reduction of this decret, Barron acknowledged his subscription to the letter; but pleaded, that such missive letter, not being holograph, is not a proper writing for constituting a tack for a number of years.

Answered: Whatever might be the case in a question with singular successors, this plea cannot be good to the defender, who acknowledges the contract, and his subscription to the writing, especially after it has taken effect by possession.

“ The Lords sustained the reasons of reduction, and ordained the pursuer to be repossessed.”

Act. *J. Burnet.*

Alt. *And. Pringle.*

Clerk, *Kilpatrick.*

M.

*Fac. Coll. No. 72. p. 111.*

\* \* See Lord Kames's report of this case, *voce* WRIT:

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1757. *August 10.*

JAMES GORDON of BADENSCOTH *against* ALEXANDER HALL, his Tenant.

No. 26.

Nullities of a tack supplied by the tenant's possession.

A letter being addressed to an heritor, who was minor at the time, by a former tenant, agreeing to become bound to accept of a tack of the same farm, for thirteen years, and to pay a rent which was acknowledged to exceed the old rent in two particulars, viz. eight feet of peats, and a stone of butter; this was found equivalent, against the heritor, to a tack, though the letter bore no date; because it was proved, by the heritor's declaration, that the date of the letter was five years before; and though his curator was not present at receiving the letter, yet he himself became major soon after, and received the additional rent contained in the letter for four years; during which time, as he acknowledged, the tenant possessed upon no other title than the letter.

Act. *Burnett.*

*W. J.*

*Fac. Coll. No. 51. p. 85.*

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1766. *November 25.*

CAPTAIN JAMES STEWART, Factor on the Estate of Leith-hall, *against* PATRICK LEITH, Tacksman of Christ-kirk.

No. 27.

Tenant's oath in a judicial rental cannot give a verbal set of lands the effect of a written tack.

Patrick Leith, at Whitsunday, 1756, entered to the possession of the lands of Christ-kirk, in consequence of a verbal set from Mr. Leith of Leith-hall; and, after Leith-hall's death, in 1764, Captain Stewart, as factor for Mr. Leith's son, a minor, brought an action before the Sheriff of Aberdeenshire for removing Patrick Leith from these lands. The Sheriff decerned in the removing; and the cause was brought into the Court of Session by suspension.