

16560.

WARD.

1616. *June 27.*

EARL of ANGUS and NISBET *against* The LAIRD of BILLY.

No. 9.

In an action betwixt the Earl of Angus and Hugh Nisbet *contra* the Laird of Billy, for the double avail of the marriage, the Lords found an infeftment being solvendo 8 solidos sterlingorum tantum pro omni alio onere, warda, relevio, &c. relevant to infer a taxt ward, albeit it made mention of no kind of holding.

Kerse MS. fol. 68.

1621. EDWARD EDGAR *against* The LAIRD of CRAIGMILLER.

No. 10.

A superior minor of ward-lands not obliged to infeft a party who had comprised, but the Lords found the diligence sufficient to make him bruik and remove tenants.

Kerse MS. fol. 112.

1623: *July 25.* HAY *against* CUNNINGHAME.

No. 11.
A life-rent
infeftment
confirmed ex-
cludes ward.

Hay, assignee to the Lord Yester, pursued Cunninghame, vassal to the said Lord, to pay the duties of the lands since the year 1612, because the same were holden of him. It was excepted, That the defender's mother was infeft in life-rent, confirmed by the Lord Yester, superior. It was answered, That the defender could not propone the exception, because, by his own retour, it was declared, that the lands were in ward since his father's decease. The Lords admitted the exception, because the inquest behoved to retour the lands to be in ward by the decease of the vassal, without respect of the life-renter's right, because she compeared not to produce it to them, and nevertheless the heir, who could not bruik the lands, could not be decerned to pay the duties.

Haddington MS. v. 2. No. 2908.

1627. *March 13.* The LAIRD of LEE *against* GLEN of BAR.

No. 12.

A tack being set of ward-lands by the heritor to any person, thereafter, when these lands fall ward, the superior or his donatar will get no more than the tack-duty, though it be never so far within the true avail of the lands, before he make warning or interruption, by summoning for the mails and duties, which is equivalent to a warning.

Spottiswood; p. 355.

* * Durie's report of this case is No. 204. p. 15316, *voc* TACK.