

1664. July 19. HOSPITAL of Glasgow *against* ROBERT CAMPBELL.

THE Hospital of Glasgow having apprised the lands of Silvercraig, they thereupon obtained decret, which being suspended, compearance is made for Robert Campbell in Glasgow, who *alleged*, that he has apprised the estate of Lamont from the Laird of Lamont; and that the lands of Silvercraig are a part and pertinent of the lands apprised by him, whereby he stands in the right of the superior, and offers to prove, that the lands in question are ward, and that the apparent heir from whom the hospital hath apprised, is yet minor, and therefore, the hospital coming in his place, can be in no better case than the minor, but the course of the ward must run during the apparent heir's minority. The charger *answered*, that the course of the ward cannot now run, because the lands are full by the infestment of the appriser, who stands infest, being received by a prior appriser of the superiority, without any exception or reservation of the ward duties. It was *answered*, for Robert Campbell, that George Campbell's apprising of the superiority was extinct by satisfaction of the mails and duties before he received the hospital, and so there is now place to the second appriser, neither can the filling of the fee by the appriser stop the course of the ward, which began before the apprising, albeit the appriser be infest simply; seeing all infestments on apprisings are in obedience, which never imports a passing from any right of the superiors, albeit he do not reserve the same; and therefore, he may make use of any right in his person, not only as to the casualties of the superiority, but as to the property, and his receiving in obedience, is only to give the appriser anteriority of diligence.

Which the LORDS found relevant.

*Fol. Dic. v. I. p. 431. Stair, v. I. p. 416.*

---



---

S E C T. IV.

Removing, how past from.

1549. June 3. LAIRD OF BLAIRQUHAN *against* DUNCAN CRAWFURD.

GIF ony man makis warning to ane uther, to flit and remove fra ony landis or possessioun, and, efter the making of the samin, takis and ressavis fra him ony maillis of the samin landis, of ony termis then bypast, and exoneris and dischargis him thairof, he may not persew him to remove fra the saidis landis be resoun of the foirsaid warning: And gif he quha is warnit removis not,

VOL. XV.

36 A

No 15.

A superior by receiving an appriser, was found not to derogate from his right of ward.

No 16.

He who receives the mails after warning, may not remove the tenants.

No 16. the maker of the warning may not call nor persew him for violent occupatioun; because, be ressavng of the maillis foirsaid, he ratyfyit and approvit. him tenent, and *tacite* past fra the said warning.

*Fol. Dic. v. I. p. 432. Balfour (REMOVING.) No 125. p. 461.*

No 17.

Service or good deed received from the husband, annuls a warning previously given to him; and his wife after his death cannot be removed upon that warning.

1550. June 20. JOHN WALLACE *against* SIBILLA CATHCART.

WARNING beand maid to ony persoun havand ane lauchful wife, quha happinis, efter the making of the samin, to deceis; nather his wife, as wife, nather as haill intronissatrix with his gudis and geir, may be callit and persewit to flit and remove be ressoun of the said warning, gif the maker thairof, efter making of the samin, chargit hir husband, befoir his deceis, as tenent of his saidis landis, to ride, gang, or serve him on ony of his occasionis, materis, or affairis, and acceptit the samin fra him as tenent foirsaid.

*Fol. Dic. v. I. p. 432. Balfour, (REMOVING.) No 126. p. 461.*

No 18.

Service or good deed received from the tenant, stops the warning.

1563. January 8. ALEXANDER BOYD *against* ROBERT BOYD.

WARNING beand made to ony tenent or occupiar of lands, quha of befoir was in possessioun of the saidis landis, and in use of payment, and doing of certane dewties and service thairfoir, efter the tenour of his tak and assedatioun; gif the maker of the warning, efter the making thairof, acceptis fra the tenent ony part of the said service, ariage, cariage, or uther dew service, the doing and acceptatioun thairof makis the tenent unremovabill for that zeir: Bot gif the tenent bruik and joise the saidis landis be virtue of ony tak or asse-datioun, and he do his master ony service or dewtie quhilk is not contenit in the said tak and assedatioun, the doing and acceptatioun thairof is not helpful to the tenent, nor hurtful to the master; because the tenent was not oblist to do the samin.

*Fol. Dic. v. I. p. 432. Balfour, (REMOVING.) No 130. p. 462.*

No 19.

A decree of removing was found to be renounced by the pursuer after obtaining it, receiving the rent from the tenant.

1579. January 21. LINDSAY *against* TENANTS.

THERE was one Margaret Lindsay, and Mr James F. her spouse, for his interest, that pursued one for the succeeding in the vice of one A. who answered and alleged, that he ought not to be decerned to succeed in vice, because his author against whom the decret was given, and also before the warning whereupon the decret past, set the tack that he had to run of the lands that he was called for the succeeding in the vice into, and renounced, and gave over all kindness, right, and title that he had to the said lands to the said A. which proceeded upon the said warning. To this was *answered*, That he