

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 assedatioun, 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