

Kirk-lands; for if it was not confirmed, it was a null infeftment, and so could not allege upon her infeftment, but was as if she were not infeft: And this was so found, albeit the tenants *duplied*, That they could not dispute upon the validity of their master's right, seeing they were only tenants, and she was not warned, who, if she had been warned, would have maintained her own right, which was not known to them, if it was confirmed or not; which was repelled.

Act. *Scot.*

Alt. ———.

Clerk, *Scot.**Fol. Dic. v. I. p. 140. Durie, p. 244.*

No 90.
master, the
condescend-
ence was not
sustained, un-
less they
would farther
allege, that
the infeftment
was confirm-
ed by the
King, being
of kirk lands.

1627. *March 22.* LA. NITHISDALE *against* Her TENANTS.

IN a removing by the Lady Nithsdale against her Tenants, one Pollock *alleged*, that he was tenant to another who had a rental of the lands set during the lady's lifetime, and during the receiver's lifetime, who were both in life; and he who was rentaller not being warned, and who was his master, no process therefore ought to be granted against the excipient; and the pursuer *replying*, that, by the express condition of the rental, it was provided, that if the rentaller should put another in possession of the land, *hoc ipso* the rental should expire; and so seeing the excipient confessed his possession as tenant to the rentaller, the said rental could not furnish any exception; THE LORDS, notwithstanding of the reply, found no process, while the rentaller were called and warned, that he might dispute upon the force of his own rental, which could not be taken away except himself were called.

Act. *Douglas.*

Alt. ———.

Clerk, *Hay.**Fol. Dic. v. I. p. 140. Durie, p. 293.*

No 91.
A defender in
a removing
founded upon
a tack from a
rentaller who
was not warn-
ed. The pur-
suer replied
upon condi-
tions in the
rental by
which it
would appear
to be expired.
The Lords
found no pro-
cess till the
rentaller was
called.

1627. *July 26.* LADY BOYNE *against* Her TENANTS.

IN a removing pursued by the Lady Boyne against her tenants, it was found, she needed not warn her own son, the Laird of Boyne, apparent heir to his father, from whom the Lady's infeftment in conjunct fee or liferent proceeded; because a man is not obliged to warn his own author, or his apparent heir.

Fol. Dic. v. I. p. 140. Spottiswood, (REMOVING) p. 283.

No 92.

1627. *December 7.* L. BAMFF *against* His TENANTS.

IN a removing by L. Bamff against his Tenants, the LORDS found an exception relevant, proponed for the defenders, that they were tenants to one condescended upon, who was heritably infeft in the lands libelled, and who was not warn-

No 93.
An exception
sustained in a
removing,
that the de-
fenders were
tenants to a