

=pointing Tenants to be orderly warned to remove Act. 39. Par. 6. 2. M.
 A Tenant of Land in the Country Mills Fishings and Possessions whatsoever
 must be warned to remove whether within or out of Scotland upon 40
 Days before Whitsunday 20 Feb. 1666 M. Gray contra Grichton the
 Warning being rather an Intimation than a Citation. which Warning
 must be made 40 Days before Whitsunday within the Year tho the Title
 of the Tenant's Possession cease at another Term v. g. tho the 1st of the
 said be at Martinmas or some other Term. The Reason is that Tenants
 may have Time to provide themselves of other Possessions, and take in Debt
 their ordinary Fuel; since Lands used to be set and Deeds cast about
 Whitsunday. But tho Tenants whose Terms expire at Martinmas
 must be warned 40 Days before Whitsunday Execution will be sup-
 =posed till Martinmas 8 July 1628 Foulis contra his Tenant 18
 Decemb. 1628 Ingles contra Tenants 15 June 1631 Ramsay contra
 Stair Lib. 2. Tit. 9. §. 40. M. Kenzie on Act 39. Par. 6. 2. M. The 40
 Days ought to be free without including the Day upon which or the Day
 to which the Warning was given to remove. Tho Days be otherwise com-
 =puted in Citations, where it sufficeth that either the Day upon which the
 were given or the Day of Appearance ^{free Craig Lib. 9. §. 2.} Because
 Whitsunday when a movable Term are often run for in Summer where
 by the plitting Tenants did eat up and destroy the Meadows and barren
 ground, to the great Prejudice of the intrant Tenant, the 15 Day of May
 is now made the legal Term of removing both in Burgh and Country
 Act 30. Sept. 2. Par. 11. & M. The Warning must be intimated to the Tenant
 personally or at his dwelling Place tho he be Minor there is no
 =cessity to warn his Tutors and Curators, a Precept of Warning being no
 Judicial Act 12 July 1628 Bennet contra Turnbull. It must also be ex-
 =cuted on the ground of the Lands for certiorating all Pretenders to real
 Rights and Subtenants; and at the Parish Church Door, immediately
 after the Forenoon's Sermon while the Congregation is dissolving, or
 when it useth to be dissolved if there be no preaching; and Copies thereof
 should be left in both these Places Act 39. Par. 6. 2. M. For this the Law
 (Act. 39.) requires the Warning to be read in the Parish Church in the
 Time of Preaching or Prayer yet Custom hath interpreted it so as to
 have it done at the Church Door immediately after ^{divine} service while the Congre-
 =gation is dissolving. The Warrant of this Warning is a Precept from the
 Master commanding his Officer (who may be any Person he pleaseth)
 to do as above Craig Lib. 9. §. 4. Vers. Forma autem haec est Stair Lib.
 2. Tit. 9. §. 40. Warning at an old Church was sustained, when divine Worship
 was performed at a new Church, unless that new Church had been erected and
 the former suppressed by the Commission. And even in that Case, the
 Warning

Warning was held good if Warnings used to be published at the old Church
 24 January 1667 E. Argill contra Campbell. Tho a Precept of Warning
 was allowed to have been duly executed, tho the Publication thereof at the
 Parish Church Door was some Days before Execution against the Tenant;
 It being sufficient that both Executions are 40 Days before Whitsunday 2
 Decemb. 1712 Stirling contra Gordon. Tenants of Houses within Burghs
 are warned according to the Custom of the Burgh, by a Town Officer
 who in Evidence thereof chalketh their Doors 40 Days before the
 Term at which they should remove. For albeit a Warning to remove
 from Land in the Country must be executed 40 Days before Whit-
 =sunday, even when there is another conventional Term of removing;
 yet removing from a Soapwork and dwelling House was sustained,
 upon Warning at Lammas (tho not before Whitsunday) the conventio-
 =nal Term being the last of November 20 November 1671 Riddel
 contra Linxan Stair Lib. 4. Tit. 26. §. 7. Because the Reason for
 warning Landward Tenants 40 Days before Whitsunday, doth not
 extend to Tenants within Burgh, or other Tenants who are not under
 that Necessity of providing for themselves before that Term. According
 to Craig Lib. 9. §. 5. and the Law Stair (Lib. 2. Tit. 9. §. 40. Vers. Secondly)
 the Town Officer warns by verbal Order of a Baillie. But a particular
 Precept or Direction from a Magistrate, is not necessary to authorize
 him to warn Inhabitants of a Burgh; it sufficeth that the Officer do
 at the Desire of the Person having Right to the House and chalk the
 Door before Witnesses, without giving any Execution in Writ 18 July
 1634 Hart contra Tenants 24 June 1709 Barton contra Duncan. For
 1. The publick Town Officers are in Use to summon Persons to the Baillie
 Court without a Magistrate's Order 2. As a Precept under the Master's
 Hand is a sufficient ground to warn Tenants to remove from Land in
 the Country so an Heritors verbal Order to an Officer within Burgh
 (where a verbal Order to warn sufficeth) is sustained, without the spe-
 =cial Warrant of a Baillie. 3. The Magistrates of Edinburgh use in
 the Beginning of the Year to give a general Order to their Officers to
 chalk Doors, when required by the Landlords; And what Craig and my
 =Lord Stair say, may perhaps be understood of that general Order. Subten-
 =ants put in by the Tenant need not be warned by the Master to remove,
 seeing they derive their Possession only from the Tenant. A Tenant
 being duly warned may be purfied even before the Term, to remove at
 the Term and the regulariter Persons ought not to be molested by Process
 before the Times Decrets of Removing may be obtained before to take Ef-
 =fect at the Term 25 Novemb. 1671 Riddel contra Linxan 16 June 1681