effectual at the precise Term, or at any other Term or Time thereafter, upon Intimation so long before the Term, as the Possessor may provide for himself and remove his Goods; so be it was agreed in Writ so to do. And that the surest and safest course is, to intimate to the Possessor 40 Days before the Term; otherwise in all Probability he will be decerned to remove at the next Whitsunday after the Process without violent Profit; as useth to be done when a Tenant hath a probable Excuse for not Removing. Yet this great Lawyer in another Place (Lib. 4. Tit. 26. §. 19.) seems to obviate the Necessity of such a Distinction, by telling us that one who disponed Lands or Heredetaments, with an Obligation to enter the Acquirer in the Possession, may be summarly removed: But if the Disposition contain only an Obligation to infeft and an express Term of Entry (which intitles to Mails and Duties, and implies a tacit Obligation to remove) the Disponer ought not to be removed without Warning; at least he will be decerned to remove only at the next Whitsunday, without being liable for violent Profits. For less ought an Apparent Apparent Heir, whether he hath only charged the Superior or be infeft, to remove the Debtor Summarly: Seeing his Title is but a legal Disposition, and the Lords may by Law (Act 62. Par. 1. Sess. 1. K. 2.) restrict his Possession within the Legal to his Annualrent.

Summary Removing by Law, without Action, takes Place in all Cases where the Reason of the Statute appointing Tenants to be warned, viz. that they be not put unawares to seek Habitations at an unseasonable Time of the Year, doth cease. Stair. Lib. 2. Tit. 9. §. 38. As 1. Where the Possessor is not a Tenant, but possesseth vitiously viz. Clam, or as Successor in the Vice of a Tenant warned to remove; or entered by Ejection of the natural Possessor, or possesseth by an insufficient Infeftment, or precario by Tolerance Craig Jus. Feud. Stair Ibid. & Lib. 4. Tit. 26. §. 19. 2. There needs no formal Warning to remove Possessors from Furris pinnata, a Tower or Fortalice or House not necessary for labouring the Ground, thos set in Tack or from a Coalpit or liferented Lands after the Liferenters Death. From all which Letters may be had upon Application by Bill to the Lords of Session, for charging the Possessors to remove. Act 17. Par. 6. J. 2. 15 March 1628. L. Hylton Suppliant 18 Decemb. 1639 Ramsey contra Had protld. 18 Decemb. Inhibitions of personal Exhibitions contra Ramsey of Corkerron Conheath Craig Jus. Feud. §. 7. Stair Lib. 2. Tit. 9. §. 38 Mr Kenzie Observation Act. 39. Par. 6. J. 2. M.S. A Liferenter after the Death of a former Liferenter hath the same Privilege to remove without Warning those who continue the former's Possession: As a Friar, whose Lands are disponed with a Liferent, hath to enter thus summarly to Possession after the Liferenters Death 12 January 1622 Lady Kinkard contra But thos the Representatives of a Liferenter of Lands who died in the Possession

Possession thereof may be removed summarly without Warning: Yet a Tenant put in by such a Liferenter cannot be removed without a previous Warning Craig Ibid. Tit. ic. §. 7. Nor was the Relict of one to whom a Liferent Tack had been set allowed to be removed summarly after her Husband's Death without a previous Warning 13 Feb. 1630 L. Rowallan contra Relict of Boyd. 2. Summary Removing is competent by Law upon a Process against a Tacksman for declaring the Tack void, upon the Account of his suffering two Years Tack Duty to be unpaid. Which Action is analogous to a Declarator at the Instance of a Superior against his Vassal ob non solutum canonem. Summary Removing doth also ly upon a Process against a Tenant decerning him to pay bygone Rent, and to find Caution for Payment of what shall fall due in time coming or otherwise to remove. In which Case of extraordinary Removing of Tenants for not finding Caution, the Lords of Session are only Judges competent & are no inferior Judge 23 Feb. 1632. L. Jervilwood contra L. Livingstoun.

2.

Of Rentals.

A Rental (so called because it is the Constitution of a fixed Rent) is a Kind of Tack or Set for paying a Sum or some Acknowledgment at the Entery, and an easy yearly Duty thereafter not comon to the Master's rental Book. One who enjoys a Rental, is called a Rentaller, and hath the Privilege of a Kindly Tenant, either by the Master's Indulgence, or because his Predecessors have been ancient Possessors or Kindly Tenants.

No Set is accounted a Rental, except it be in Writ and the Writ bear the same to be a Rental Stair Lib. 2. Tit. 9. §. 16. To make a Rental effectual it must not only be signed by the Heretor before Witnesses, but also must be delivered to the Rentaller: For otherwise the Rentaller might refuse the same as not bound thereby. Therefore an Heretor having written in his Rental Book, that certain Persons were rentalled to him Tenants and Rentallers of some Lands during their Lifetimes, was not sufficient to maintain them in Possession against a Purchaser of these Lands 5 July 1625 L. Aytoun contra Tenants. But such a Rental was found valid against the Seller and his Heirs or one obtaining afterward a Tack from him 4 Feb. 1629 Maxwel contra Grahame Ibid. & 5 July 1625 Aytoun contra Tenants. A Rental is not as a Tack null for not mentioning an Ish. But our Lawyers have been much divided about the Endurance of a Rental expressing no Time. Craig (Feud. Lib. 2. Tit. 9. §. 9. Vers. Huic Modalioni simile) and Sir George Mckenzie (Inst. Lib. 2. Tit. 6. §. 9.) will have Rentals that are set to an indefinite Time, to expire after a Year. And their Opinion is supported by some