

No 125.

Though the judgment of the Court in this case went in a great measure upon the special circumstances, it was observed by very high authority from the Bench, that Lord Stair's opinion of a notification of forty days being necessary, even where a tenant was bound to remove without warning, was right, and in the abstract case should be followed.

The following judgment was pronounced, January 24. 1771, " Find the notification insufficient for removing the petitioner at Martinmas 1769 from the arable land, and at Beltan or May-day 1770 from the houses and grass ; but find it sufficient to oblige her to remove at Martinmas last, and Beltan or May-day next ; and therefore, in respect the said term of Martinmas is elapsed, decern and ordain her instantly to remove from the arable lands, and from the houses and grass at Beltan or May-day next."

Lord Ordinary, *Pitfour*,
For Fulton, *Geo. Fergusson*.

For the Earl of Eglinton, *Lockhart*,
Clerk; *Ross*.

R. H.

Fac. Cdl. No 69. p. 205.

 SECT. X.

State in which the person who removes is bound to leave the property.

1554. *December 19.* BARCLAY of Cullernie *against* BARCLAY.

No 126.

GIF ony man be chargit to deliver ony tour, fortalice, or place, he aught and sould deliver the samin, with barnis, byris, stablis, and all uther necessare housis pertenant to the samin, as pertinentis thairof.

Fol. Dic. v. 2. p. 338. Balfour, (PERTINENTS OF LANDS.) No 1. p. 175.

No 127.

The person decerned to remove, must deliver up the possession void of any occupier.

1624. *January 30.* GREENLAW *against* ADAMSON.

IN an action of suspension of a decret of removing betwixt Greenlaw and Adamson, the LORDS found, That the decret of removing was not satisfied and fulfilled by any instrument of obedience, bearing, that the party against whom