

S E C T. VIII.

Removings may be decreed in during Vacation.

1744: July 3.

MOLLISON *against* STORMONT.

No 116.

A BILL of suspension of a decree of removing, on this ground that it was pronounced by the Sheriff of Forfar, on the 12th of April, in time of closs Feriat, was, upon report, refused.

The difficulty was, that by Queen Mary's statute in 1555; which is the only one we have concerning that matter, all inferior judges are ordained to sit in May (the words are, 'immediately after Trinity Sunday') to do justice in removing. Whence it was questioned, Whether that did not exclude them from judging in any other time of the vacation, other than fell within the time of dispensation; at least, if it did not shew that a special statute was necessary to enable the inferior judges to sit on removings in vacation time.

Nevertheless the LORDS found as above, in respect of the universal practice to sit on removings in vacation time, which was declared by several of the Lords to consist with their proper knowledge.

N. B. At the date of this statute, the Session sat in both March and April; whence it may be thought, that the intention of the statute was in general to authorise sitting in vacation time; and which may have given rise to the present practice, though as the statute is expressed, the practice has no support from it.

Kilkerran, (REMOVING .) No 5. p. 482.

S E C T. IX.

Effect of an obligation to remove without warning.

1586: November.

FREELAND *against* MONTEITH.

No 117.

IN an action pursued by George Freeland, tenant to the Earl of Marr, against William Monteith of the Gogar, the said George, pursuer, having got a

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Found, that where there was a specific obligation to remove at