

* * Haddington reports this case :

THE LORDS found, that a warning made by a donatar to a liferenter, before he had obtained declarator, was not lawful, and could not convalesce by the subsequent declarator.

No 32.

1610. November 29.—GENERAL declarator being given of a man's escheat and liferent, upon diverse hornings, and he thereafter warning the possessors of the liferent lands to remove; if one who was infest by the rebel, after the first horning, offer him to prove that the party was relieved within year and day after the denunciation, and that thereby he was able to grant him lawful infestment, and that his liferent fell not by that horning, it will be received by way of exception, notwithstanding of the declarator; standing the which these defenders not being called, the same will not prejudice them.

Haddington, MS. No. 1987. & 2024.

1611. February 19. FAIRLIE against BLAIR'S HEIRS.

No 33.

A CHARGE to enter heir, executed at the pursuer's instance, before he was himself entered heir, was sustained, by his subsequent service, which was drawn back to the time of the charge.

Fol. Dic. v. 2. p. 304. Haddington.

* * This case is No 23. p. 3575. *voce* DISCUSSION.

1618. July 2. WHITELAW against —.

No 34.

IN a reduction, pursued by Dame Mary Whitelaw and Patrick Whitelaw, her assignee, the LORDS found no process upon the assignation, because it was dated 13th April 1617, after the date of the summons, which are raised 12th April, albeit the summons are not signeted while the 13th November, executed many days thereafter.

Fol. Dic. v. 2. p. 304. Kerse, MS. fol. 246.

1619. December 16. STRAGHAN and MENZIES against KEITH.

No 35.

RETOUR drawn back to the date of the summons, in favour of a daughter, pursuing for the heirship goods.

Fol. Dic. v. 2. p. 303. Kerse, MS. fol. 139.