

1754. March 6. EARL OF MARCH against CHARLES DOWIE.

IN 1745, the Countess of March set the mill of Kings-Crammond and certain lands to Charles Dowie for the space of one year, and his entry was at the term of Martinmas.

Dowie continued to possess for several years by tacit relocation; and after the death of the Countess, her son the Earl, in February 1753, not knowing the term of Dowie's entry, warned him to remove from his possession against Whitsunday 1753.

The Earl brought a process for removing before the Sheriff of Edinburgh; who decreed Dowie to remove from the arable land at the separation of the crop from the ground, and from the houses at Martinmas 1753.

Charles Dowie suspended and *pleaded*, That the warning was void and null, in regard he was warned to remove at a term at which he could not be obliged to remove; and therefore no decret of removing could be pronounced on such warning.

Answered for the Earl; That by the act of Parliament 1555, all warnings must be executed forty days before Whitsunday, at whatever term the tenant entered, and therefore the warning was properly executed forty days before Whitsunday; and although he was warned to remove at Whitsunday, which was not the term of his entry, yet the only consequence of that ought to be, that the removing behoved to be superseded until Martinmas 1753, which the Sheriff had done.

“THE LORDS sustained the objection to the warning; but of consent found the letters orderly proceeded for the suspender's removing at Martinmas 1754.

For the Charger, *Brown.* Alt. *Jo. Grant* Clerk, *Kirkpatrick.*

B. *Fol. Dic. v. 4. p. 223. Fac. Col. No 103. p. 153.*

*** The same was found 11th February 1780, Campbell against Buchanans.

See APPENDIX.

1756. March 11. DUKE OF QUEENSBERRY against TELFER.

TELFER was tacksman of the Duke of Queensberry's lead mines at Wanlockhead. Upon expiry of the lease, the Duke obtained a decret of removing against him. Telfer did by a formal instrument give over his possession to the Duke's managers, who in his name acknowledged the acceptance thereof in terms of the lease.

No 84.

A warning found null where a tenant, whose entry was at Martinmas, was warned to remove at Whitsunday.

No 85.

Miners and labourers about lead mines may be removed from houses which