

No 78. penalties or advantages; and the pursuer is content to satisfy the Duke what he truly gave out to Minto. It was *duplied* for the defender, That he did not receive this possession from Minto, but from Sir John Whitefoord, who had it from Minto's Lady, and therefore was not obliged to restore it to Minto, but might defend his possession by any supervenient right, which would exclude Minto's right.

THE LORDS repelled the defence upon the gift of Minto's escheat; and according to the common forms of declarators of redemption, declaring the lands redeemed, and decerned the Duke to denude himself both of right and possession, reserving the Duke's gift of escheat and declarator thereupon, and all action of removing, and mails and duties for recovering possession, as accords of the law; but repelled the objections against his gift and declarator, which cannot be quarrelled by reply, but only by way of reduction.

*Fol. Dic. v. 1. p. 599. Stair, v. 2. p. 561.*

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S E C T. VIII.

Incumbrances affecting the Subject, transacted by the Disponee, cannot be extended against the Disponer, bound in Warrandice, further than to pay the transacted Sum.

1610. February 7. Lady BAIKLIE *against* CRAWFURD.

No 79.

A LIFERENTER, whose liferent is evicted, pursued her author's heirs for warrandice of her liferent.—THE LORDS found an exception against the general warrandice, that it ought only to be restricted to one hundred merks a-year; because she had transacted and obtained right to bruik during her lifetime, for payment of an hundred merks yearly.

*Fol. Dic. v. 1. p. 600. Haddington, MS. No 1792.*

1632. March 8. LOGAN of Balvie *against* LAIRD of LUSS.

No 80.

Found in conformity with the above, that a person who has trans.

IN a suspension of charges, executed against Archibald Thomson, who was cautioner to the Laird of Luss, for relieving of the lands of Balvie, of all burden which might affect these lands, the same being sold by Logan of Balvie to the Laird of Luss, and ay and while the payment of the remanent of the price thereof by the Laird of Luss; the said Archibald was cautioner, to the effect