

1684. February. DR TAYLOR *against* BRUCE and STRANG.

It being *alleged* against a removing, at the instance of a donatar of *ultimus hæres*; That the gift is not declared, which ought to have been done: *2do*, That the pursuer was infest after the term of removing; and though he had been infest before the term, and after the warning, the infestment could not be drawn back in favours of him a singular successor:

Answered: It is absurd to require a declarator of a gift of *ultimus hæres*, the defunct having no heirs to be called in such a process; for if he had heirs, there would be no place for an *ultimus hæres*.

Replied: There ought to be a declarator, though proceeding but upon a general citation of all persons having interest, at the market cross, as was found the 31st of July 1666, in the case of Thomas Crawford *contra* Town of Edinburgh, No 7. p. 3410.; and Balnagown *against* Dingwall, No 6. p. 3409.

THE LORDS found, That a gift of *ultimus hæres* ought to be declared as well as a gift of bastardy.

Fol. Dic. v. 1. p. 228. Harcarse, (REMOVING.) No 840. p. 240.

No 8.
Found as
above.

1684. February 25. TAYLOR *against* ———.

THE LORDS, in the case of Doctor Taylor, servitor to the Dutchess of Portsmouth, 'found that he, as a donatar to the bastardy, and *ultimus hæres* of ———, had right, without a declarator.'—Though in Durie's time, and twice since the King's return, it is decided, that these gifts always need declarator, viz. 30th July 1662, Ross of Balnagoun, No 6. p. 3409.; and 31st July 1666, Crawford, No 7. p. 3410.

Fol. Dic. v. 1. p. 228. Fountainball, v. 1. p. 274.

No 9.
A gift of bas-
tardy was
found not to
require a de-
clarator.

SECT. III.

Gift of single and liferent Escheat.

1610. November 28. WHITEBANK *against* HOME.

DOUBLE-POINDING being raised by the debtor of him who was put to the horn, against the said creditor on the one part, and the donatar upon the other;

No 10.