

more recent date, Forbes, 22d December 1710, Baillie against Menzies, No 32. p. 3704.; Fac. Col. 17th July 1752, Clerk against Waddel, Div. 7. b. t.

No 35.

THE LORD ORDINARY repelled the objection ;

But on advising a reclaiming petition, answers, replies, and duplies, the COURT unanimously, ' in respect the execution of the arrestment was informal, sustained the objection to the interest produced for Lancaster and Jamieson.'

Lord Ordinary, *Stonefield.*

For the Objectors, *Lord Advocate Dundas, J. W. Murray.*

Alt. Maconochie, Fletcher.

Clerk, Pringle.

R. D.

Fol. Dic. v. 3. p. 188. Fac. Col. No 148. p. 339.

SECT. III.

Edictal Citation.

1491. *February 22.*

PATRICK HOME of Fastcastle *against* PERONELL LIBBERTON.

QUHEN ony persoun needs to be summoundit, he aucht to be summoundit first personallie, or at his dwelling place, gif he ony hes, conform to the act of Parliament. And gif he be a vagabond, havand na certane domicile, nor zit be apprehendit personallie, it is sufficient to summound him be opin proclamatioun at the heid burgh of the schire quhair he maist commonlie hauntit and usit, befoir the time of the executioun of the saidis summoundis.

Fol. Dic. v. 1. p. 260. Balfour, (SUMMONS) No 41. p. 312.

No 36.

A vagabond may be summoned at the market cross of the head burgh of any shire, where he most commonly haunted, before the execution of the summons.

1625. *July 26.*

L. RANKILOR *against* L. AITON.

IN an action of poinding of the ground for an annualrent, pursued by the Laird of Rankilor against the Laird of Aiton, who was a minor, and was convened with his tutors and curators generally, who were summoned at the market-cross of the head burgh of the sheriffdom where the minor had his actual remaining and being, and at the which the minor's self was summoned, was sustained by the LORDS, and found it a sufficient citation of the minor's tutors and curators; neither was it found necessary, that the tutors and curators should be summoned at the head burgh of the Sheriffdom within the which themselves dwelt, nor that they or the minor himself should be summoned at the market-

No 37.

In citing a minor in a process of poinding the ground, it was found sufficient to cite his tutors and curators at the market cross of the head burgh of the shire where the minor dwelt, though nei-

No 37.
 ther he nor
 they dwelt in
 the jurisdic-
 tion where
 the lands lay.

cross of the head burgh of the regality, or the stewartry, within the which the lands lay, which were desired to be poinded ; so that the citation of the minor, and of his tutors and curators, generally used at the market-cross of the head burgh of the Sheriffdom within the which the minor dwelt, was sustained, seeing the minor dwelt not then within the regality. See No 41. p. 3709.

Act. Lermonth.

Alt. Aiton.

Fol. Dic. v. 1. p. 260. Durie, p. 181.

1675. February 5.

A. against B.

No 38.

THE LORDS found, That a warrant could not be given to cite at the market cross, with certification *pro confesso* ; seeing no person could be holden as confest who was not personally apprehended.

Clerk, Hay.

Dirleton, No 243. p. 117.

1697. July 7.

COCKBURN against ROBERTSON.

No 39.

A facile person being carried out of the way, to prevent personal citation, edictal citation was admitted in a process of interdiction.

THERE is a bill given in by Mr Hary Cockburn, late Provost of Haddington, and others, representing that William Cockburn his son, is a youth within two or three months of majority, and of that facility and prodigality, that, for a little present money, he is ready to renounce his interest in a large succession he falls to Provost Sleich in Haddington, his grandfather, and has been often imposed upon by Mr John Robertson, who has married the other heir portioner, to grant disclamations of the processes intended by him for recovery of his just rights ; and now they have spirited him away, so it is not known where he is, and will cause him abscond till his minority expire, and then take a disposition from him to all, for some small thing ; and therefore craved, seeing they were to execute a summons against him, to get him interdicted *causa cognita*, and knew not where to cite him ; that the Lords would allow the same to be done at his master's house, where he was bound apprentice in Edinburgh, and at the market cross of Haddington, where his lands lie.—THE LORDS, considering this to be an extraordinary case, and some documents of his levity being produced, they allowed an edictal citation ; as also appointed Mr John Robertson to be cited, and referred to the Ordinary on the bills to try the matter of fact. THE LORDS have several times *ex proprio motu* interdicted lavish persons ; whereof we have an eminent instance. 17th February 1681, Robertson *contra* Gray ; *voce* INTERDICTION ; and by the Roman law, Prætors gave curators to prodigals,