

No 39.
most concerned, as in
obtaining a
decree of
locality.

ed with a locality far above their proportion of rent. The decret was suspended in the *Englises* time, upon this reason, That the Earl was neither called nor compearing, and the decret was given to his very great prejudice. The English Judges nevertheless found the letters orderly proceeded. The Earl intents a review upon the same reason.—It was *alleged*, That the decreets of the Commission for plantation, &c. were declared to be decreets of Parliament, and the tenant of the land was cited.—It was *answered*, That in all judicatories whatsoever, decreets against parties must be given upon citation, otherwise they are null; and this nullity is receiveable before the Judge Ordinary; and the citing of a tenant is not sufficient where the master is most concerned.

THE LORDS found the decret null, and reduced.

Fol. Dic. v. I. p. 135. Gilmour, No 63. p. 47.

No 40.

1683. *November.*

REIDFOORD *against* JOHNSTON.

IN a declarator at the instance of an appriser, for declaring another's prior apprising to have been extinct and satisfied within the legal, by his and his author's intromission; the defender *alleged*, no process, in so far as concerned the author's intromission, in respect authors were not called.

Answered: The defender's apprising not being quarrelled by reduction or improbation, to take away the right, as not good, or insufficient, but only by declarator, as being satisfied within the legal, the pursuer needed not to call authors; but if the defender pleased, he might cite them *cum processu*, or intimate the action to them.

THE LORDS repelled the allegiance, in respect of the answer.

Fol. Dic. v. I. p. 135. Harcarse, (COMPRISINGS.) No 295. p. 69.

S E C T. X.

Citation in Declaration of Bastardy.

No 41.

1612. *January 18.*

CLERK *against* STRACHAN and DRUMMOND.

IN an action for the goods of a bastard, it is not necessary to summon any of his kin, because he has no lawful kinsman; but it is sufficient to summon the King's Treasurer and Advocate.

Fol. Dic. v. I. p. 135. Haddington, MS. No 2356.