

ed to be a ground of caption, when no escheat or other penal casualty follows upon it.

No 42.

THE LORDS allowed arrestment and citation on furthcomings to proceed as desired; the petitioner first condescending upon the persons in whose hands he desired the arrestments to be laid, that the Lords might be satisfied, by sufficient documents or their proper knowledge, that these persons did reside in shires, to which there was not *tutus accessus*.' .

*Fol. Dic. v. I. p. 260. Dalrymple, No 152. p. 211.*

1724. *January 22.* CREDITORS OF SIR JOHN HOUSTON *against* The HEIR.

No 43.

THOUGH in a process against a minor, his tutors and curators must be cited at the head burgh of the shire, it is otherwise in legal diligences, which must be executed at the head burgh of the regality; and therefore, a general charge executed against the minor personally, and against his tutors and curators at the head burgh of the regality where he dwelt, was sustained.

*Fol. Dic. v. I. p. 260. Edgar.*

\*.\* See This case, No 23. p. 3697.

## S E C T. IV.

When the party is out of the kingdom.

1611. *July 4.* LADY CARMICHAEL *against* Her SON.

No 44.

A MAN being furth of this realm, being summoned upon 60 days warning at the market cross of Edinburgh and shore and pier of Leith, it is sufficient, because it is esteemed *communis patria*, and it is not necessary to summon him at the dwelling place where his wife and bairns remain, or where he dwelt before going furth of the country.

*Fol. Dic. v. I. p. 260. Haddington, MS. No 2256.*

1631. *February 22.* MURRAY *against* LO. YESTER.

No 45.

In a redemption of the lands of Drumelzier, by virtue of the legal reversion competent to the Lord Drumelzier, whereto the pursuer was made assignee by

An order of redemption, used at Edin.