

No 3.

THE LORDS found the decret of registration did not supply the requisition, and that the requisition at the market-cross was null, not being by letters of supplement from the Lords, and found the omission of this allegiance could not exclude the minor in his reduction. See MINOR.

Fol. Dic. v. 1. p. 547. Stair, v. 2. p. 770.

No 4.

Found in conformity with
No 2. p. 8234.

1701. July 4.

CARMICHAEL *against* BERTRAM.

IN the competition betwixt Walter Carmichael in Easter Anniston and Alexander Bertram of Nisbet, two assignees to one debt; Carmichael had the first assignation, but last intimated at the market-cross of Edinburgh, and pier and shore of Leith, in regard the debtor was out of the kingdom; Bertram, though the last assignee, had intimated first at the cross and pier, only he had not raised letters of supplement. *2do*, He had produced his assignation in a process raised in his cedent's name, which was equivalent to a legal intimation, and this also before Carmichael's intimation. It was *objected* by Walter Carmichael, That he had the only formal intimation, and that Bertram's was null; for, *imo*, It wanted a supplement, and none without the kingdom could be cited or certiorate without the warrant and authority of the King's signet-letters, to be executed at Edinburgh and Leith, as the *communis patria* of all Scotsmen. And as for producing it in the clerk's hands, that can as little have the effect of a legal intimation; *imo*, Because the defender being absent, and not comparing in that action, it can never certiorate him; *2do*, It does not crave the decret to go out in his name as assignee, but in his cedent's name. THE LORDS preferred Carmichael's intimation, though posterior, and found the other informal and null.

Fol. Dic. v. 1. p. 547. Fountainhall, v. 2. p. 117.

1712. July 30.

JAMES GORDON of Daach, *against* JAMES GORDON of Techmuiry.

No 5.

IN a cause at the instance of James Gordon of Daach against Techmuiry; the LORDS found, that the Sheriff of Aberdeen had committed iniquity in examining witnesses who lived within the Sheriffdom of Banff, upon a citation by virtue of letters of supplement granted by the Sheriff of Banff, in respect a Sheriff could not grant letters of supplement.

Fol. Dic. v. 1. p. 547. Forbes, p. 629.