

and they had a very pretty formula of interdiction of such delapidators, *qui nec finem nec modum impensarum habent.*

No 39.

*Fol. Dic. v. 1. p. 260. Fountainball, v. 1. p. 783.*

1705. *June 12.* COCHRAN *against* UROUHART.

A PARTY having industriously absconded, the LORDS granted a diligence to cite him edictally.

No 40.

*Fol. Dic. v. 1. p. 260. Forbes.*

\*\*\* See This case, No 10. p. 3686.

1710. *July 29.*

JAMES FAIRHOLM, Merchant in Edinburgh, *against* KENNETH M'KENZIE of Assint.

No 41.

PROCESS was sustained upon a summons at the instance of James Fairholm, against Kenneth M'Kenzie, as representing Mr John M'Kenzie of Assint, his father, for payment of 1000 merks, with annualrent and penalty; for which Mr John stood engaged to the pursuer, as cautioner for the Lord Duffus; albeit the defender was minor, and Mr Alexander M'Kenzie Colonel in his Majesty's foot-guards, his sole tutor, was in Spain, and not cited upon 60 and 15 days, as one out of the kingdom; nor yet edictally at the market cross of Dornock in Sutherland, where the minor's lands lay; and the summons was enrolled only against Kenneth M'Kenzie, though his tutors were concluded against in the libel; in respect Kenneth M'Kenzie was personally cited in Dr M'Kenzie's house at Fortrose, where he resided at school; and his tutors and curators in general, were cited edictally at the market cross of the head burgh where the minor dwells; and it was needless to enroll against tutors, who are only called edictally *pro interesse*, and not concluded against in the libel *nominatim*, but only as tutors in general *ex stilo*.

Found in conformity with No 37. P. 3707.

*Fol. Dic. v. 1. p. 260. Forbes, p. 438.*

1715. *December 2.* ASHURT, and his FACTOR, Supplicants.

ASHURT, and his Factor, having offered a petition to the Lords, showing, that he had raised horning, containing arrestment, against one Congalton his debtor; which Congalton is engaged in the present rebellion, as are also several of his debtors, at the least, severals of the said debtors have their residence be-north-Forth, in the shires which are now in the power of the rebels, to which there

No 42.

Arrestments and citations on furthcoming, allowed to be executed at the market cross of Edinburgh.