

No 10. ligious upon a debt habilely constituted, which is favourable, but can never be sufficient to found a debt, where there is no other document save the decret itself.

*Fol. Dic. v. 1. p. 202.*

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S E C T. III.

Legal Diligence Executed at a Wrong Place.—Head Court Held at a Wrong Place.

1610. February 14. CAIRNCROSS against HAMILTON.

No 11.

LANARK is the head burgh of the sheriffdom of Lanark, where denunciations are lawful against all persons dwelling within the shire; because, albeit there be two wards, yet there is no distinct jurisdiction, judge, nor clerk; but ane denunciation of ane man of the nether ward at Ruglen, will not be found null by way of exception, in respect of the custom to denounce oft times thereat.

*Fol. Dic. v. 1. p. 202. Haddington, MS. v. 2. No 1801.*

1622. December 7. INNES of Cotts against GRANT.

No 12.

A vassal of a regality was unlawed for his not compearance at his superior's head court, tho' holden at another place than was contained in his infertment, because of 30 years custom to keep the courts at that place.

ALEXANDER INNES of Cotts, Bailie of the regality of Spynie, charged one Grant of Elchness for three unlaws, for his not compearance at the head court of the regality, according to his infertment, every one of the three extending to L. 50. Grant suspended, That by his infertment he was bound to compear at the head courts, to be holden at the place of Spynie, and so could not be unlawed for not compearance at head courts kept in the regality of Elgin. It was answered, That the head courts of the regality had been kept at Elgin, and acknowledged as the ordinary place these 30 years bygone by the whole vassals, and by this suspender. The matter was contentiously disputed by the LORDS, in respect of the tenor of the infertment designing the place; nevertheless, in respect of the change of the estate of benefices, by erections and otherways, and that benefices are so dismembered by erections, that the courts cannot be kept at the places appointed by the old infertments, and that Elgin was more commodious to the vassals, and acknowledged by them these 30 years, and particularly by this suspender; the LORDS found the letters orderly proceeded, but modified every unlaw to L. 10.

*Fol. Dic. v. 1. p. 203. Haddington, MS. v. 2. No 2689.*