

(DUE *ex mora.*)1686. *December 17.*

No 27.
The contrary
found.

A man living in Galloway is denounced at the market-crofs of Edinburgh on a decret: It was *argued*, that the fum in the decret bears annualrent fince that denunciation, by the 20th act of Parliament 1621, as well as it will debar him *ab agendo*, and be the ground of a caption, though it will not make his efcheat fall; and that a naked denunciation (though unregiftrate) will make annualrent due; which the Lords decided, becaufe the act mentions not regiftration; though I think it has been only forgot, and fo muft be fupplied from other acts: And the reafon of the law goes on the debtor's contumacy; now the difobeying the charge makes him contumacious wherever he be denounced; but, on the other hand, fome think, no horning fhould infer this fevere certification of annualrent, but that which is legally executed, and whereon his efcheat would fall. And it was fo found in Stair's Decifions, 26th January 1665, Hutchifon, No 25.

Fol. Dic. v. 1. p. 38. Fount. v. 1. p. 438.

1743. *July.*

COCHRAN of Bridgehoufe, *againft* REPRESENTATIVES of Colonel VANSE.

No 28.
Found in op-
pofition to
No 27. and in
conformity
with Nos 25.
and 26. that
denunciation
at the market
crofs of Edin-
burgh, againft
a perfon not
living within
the jurifdic-
tion, has not
the effect in
law to make
a fum bear
interest.

THE following queftion occurred in a procefs, Whether denunciation at the market-crofs of Edinburgh is fufficient to make a fum bear intereit, being fufficient for caption, though the debtor live not within the jurifdiction?—For the affirmative it was argued, that *Edinburgh* is *communis patria*, and therefore is the proper place for all notifications to the lieges in general; that denunciation upon a horning is a proclamation addreffed to the lieges in general, 'difcharging to receipt, fupply, maintain, or defend fuch a man, our fovereign Lord's rebel, being at the horn, &c.' and therefore the proper place of this denunciation is at the market-crofs of Edinburgh: That it having been the Sheriff's province, before gifts of efcheat were introduced, to gather in the moveables of rebels for the King's ufe, the practice crept in to denounce at the head-burgh of that fhire where the rebel's moveables lay, as a more fpecial notification to the Sheriff to do his duty; therefore, in order to efcheat, a denunciation at the market-crofs of the fhire is neceffary; but to all other purpofes, inter-communing, caption, annualrent, &c. a denunciation at the market-crofs of Edinburgh, addreffed to the lieges in general, is the proper form.

For the negative, the act 20th, Parl. 1621, was fet furth, ordaining, 'That whensoever any perfon is denounced rebel, and put to the horn for not-payment of fums of money, the perfon fo denounced fhall be fubject in payment of annualrent.' And that the denunciation here muft be a regular denuncia-