

executed at the door when entrance was denied, and then six knocks should have been made, and the execution should have expressed so much.

No 99.

THE LORDS found the execution of the warning null.

*Fol. Dic. v. 1. p. 264. Harcarse, (REMOVING.) No 839. p. 240.*

1688. July 20. DOUGLAS of Earnslaw against SIR PATRICK HOME.

AN objection against a horning, that the execution did not bear a copy was affixed on the market cross, repelled.

No 100.

*Harcarse, (HORNING.) No 520. p. 145.*

1697. July 8. BLAIR against CREDITORS of MEIN and CHATTO.

HENRY MEIN and Thomas Chatto, merchants in Edinburgh, being broke, and amongst others, being debtors to Hugh Blair, late Dean of Guild of Edinburgh, and denounced to the horn by him, he obtains the gift of their escheat, and raised a declarator.—It was *objected*, That the execution of the horning was null, because it did not bear, that a copy was left with any of the family, nor yet that it was fixed on the most patent gate or door, as custom and the 33d act of Parliament 1555 require.—*Answered*, The execution bears, that after knocking six several knocks, he left a copy of the letters, because he could not apprehend them personally, which implies a copy was affixed.—*Replied*, These formalities are *de forma specifica* and cannot be supplied; and donatars are not favourable; and the leaving of a copy is not sufficient, unless it had borne with whom it was left, and that it was affixed. Some were for examining the messenger and witnesses; but the plurality found the horning null.

No 101.

A horning found null, because the execution did not bear with whom the copy was left, or that it was affixed on the most patent door.

*Fol. Dic. v. 1. p. 264. Fountainhall, v. 2. p. 10.*

1702. July 10. ADAM KEIR against JOHN ROBERTSON.

THIS was a reduction of an inhibition served against a wife and her husband, she being fiar and heiress of the lands; against which it was *objected*, That the inhibition was null *quoad* the wife, because the execution bore no copy given to her, but only to the husband.—*Answered*, The wife, in construction of law, is not *sui juris*, but *sub potestate mariti*, who is tutor, curator, and administrator of the law to her, and so a copy given to the husband is equivalent as if it had been given to her, even as a summons to a tutor would serve for a citation to a pupil or minor.—THE LORDS considered, if the copy had been given at the husband's dwelling house, it might have been sustained as sufficient, that being likewise the wife's domicile; but being delivered to him personally apprehended

No 102.

An inhibition against a woman, who was fiar of lands, and her husband, being executed only against the husband, personally apprehended out of his house, was found null.