

February 1686, betwixt Creditors of Shenés and B. Hamilton.* But they did not incline to give a general interlocutor determining an abstract relevancy, and remitted therefore to me to enquire and report what diligence was done, which I did this morning;—and upon report the Lords unanimously found no such negligence as to make the defender liable for the arrears in question.

EXECUTION.

No. 1. 1734, July 22. *A. against B.*

IN a removing reported by Lord Newhall without Informations, (I know not the parties) the Lords found a warning executed at a dwelling-house bearing to be lawfully executed but not specifying the manner to be null; 2dly, They would not allow the execution to be amended even though the messenger should abide by.

No. 2. 1736, July 30. *NISBET of Dirleton against HIS FACTOR, &c.*

THE Lords sustained the objection to the execution, that it did not bear that the copies delivered to the servants were delivered at the dwelling-house of the masters.

No. 3. 1738, Nov. 28. *ARCHIBALD M'LACHLAN'S CASE.*

THE Lords were greatly divided in this matter. They had by a mistake appointed M'Lachlan to stand at a post at the Cross the 29th instant, which was within eight days of the sentence contrary to the act *Stio Regis*. Some of us thought that we could appoint a new day for execution, as is daily practised in case of reprieves or escapes out of prison, and once was done at a Justice-Air by Royston in a sentence of death on this very act, at least the preceding one, and the President seemed also to come into this opinion. Others were as clear that the Lords could not appoint any other day for execution, nor commute the sentence even at the suit of the party, particularly Drummore. Others doubted of our powers to alter the day, but were for commuting the sentence, as Arniston. Upon the whole it was agreed, and carried upon the narrative of the act of Parliament to find that the sentence could not be executed on the 29th, and therefore to discharge the Magistrates to execute the same.

No. 4. 1753, Aug. 7. *AUCHINCLOSS, &c. Supplicants.*

A SHERIFF OFFICER and two Commissary officers had made a false execution, the first as officer the other two as witnesses; found that the copy was not delivered to the party in presence of the witnesses;—and they were on their petition only put on the pillory at Glasgow, because of their ingenuous confession.

* Dict. No. 25. p. 3490.