

THE LORDS refused to admit of the second instrument, after the judicial offer of the first, and refused to supply or sustain the same in a case so penal, and therefore preferred the creditors to the donatar. See REDEMPTION.

No 16.

Fol. Dic. v. 1. p. 953. Stair, v. 2. p. 492.

*** See Dirleton and Gosford's report of this case, No 19. p. 3630.
voce ESCHEAT.

1679. December 11. COUNTESS OF CASSILLIS *against* EARL OF ROXBURGH.

No 17.

AN execution, bearing a copy delivered to the party's wife, was not sustained, unless it were added, that it was delivered to her in the party's dwelling house.

Fol. Dic. v. 1. p. 552. Stair.

*** This case is No 19. p. 3695. voce EXECUTION.

*** Fountainhall likewise mentions it :

AN execution sustained, though it wanted six several knocks, and the fixing a copy, because it bears a copy was delivered to the Earl's own servant in his house. See act 75th, Parl. 6th, James V.

Fountainhall, MS.

1683. November 10. MAXWELL and HOME *against* THOMSON.

No 18.

AN execution being quarrelled on the act of Parliament 1672, for not designing specially the defender, it was *alleged*, That act meant principally of citations to be used as interruptions, &c. THE LORDS, on Pitmedden's report, allowed the pursuer to mend his execution, and that being done, sustained it.

Fol. Dic. v. 1. p. 552. Fountainhall, v. 1. p. 242.

*** Sir P. Home reports this case :

ADAM MAXWELL and George Home, merchants, having pursued Andrew Thomson, skipper, for payment of a debt, *alleged* for the defender, That by the 6th act, § 3d, Parl. 2d, Charles II. it is provided, that all executions of summonses shall bear expressly the names and designations of the parties, pursuers and defenders, and that it shall not be sufficient that the same do relate generally to the summons, otherwise the execution shall not be sustained; so that, seeing the executions of this summons bear only Andrew Thomson, within designed, to be summoned, without designing him in the execution, it is null.—*Answered*, That the foresaid clause in the act of Parliament has not been in use