No 97.
In conformity with No 95. p. 3755.

1676. *December* 22. A. *against* B.

It was questioned among the Lords, whether an inhibition could be sustained, albeit the execution did not bear a copy to have been affixed at the market cross; and it was resolved as to the future, it should be declared, that executions of inhibitions should be null, unless copies were affixed; in respect there can be no executions without giving of copies, either personally, or at their dwelling-house; and when the lieges are inhibited at the market cross in general, so that a copy cannot be given to every person, it ought to be left at the market cross *in subsidium;* but, because it was informed, that many executions did not bear copies to be left at the market cross, the Lords did forbear to give answer as to the inhibition in question, until the stile and custom should be tried.

Fol. Dic. v. 1. *p.* 265. *Dirleton, No* 413. *p.* 202.

No 98.

1679. *December* 11. Countess of Cassillis *against* Earl of Roxburgh.

In an execution of arrestment, the Lords found no necessity of affixing a copy upon the most patent door, where a copy was delivered for the party to his wife, within his dwelling-house.

Fol. Dic. v. 1. *p.* 264. *Stair.*

*** *See* This case, No 19. p. 3695.

No 99.
An execution of a warning, bearing that 'a copy was left at the house,' was found null.

1684. *February.* Sir Patrick Threapland *against* Sir John Strachan.

In a removing, it being *alleged* that the warning was null, in so far as the the execution on it at the dwelling-house, did not bear six knocks, or that a copy was left and affixed upon the principal door, but only, 'that a copy was 'left at the house,' which might be true, though it was left at a back door, contrary to the act 75th, Parliament 6th, James V. and 39th act, Parliament 6th Queen Mary, anent warnings;

Answered; The first of the cited acts of Parliament doth not require knocks but when the doors are shut; and in fortification of that part of the execution, 'that a copy was left at the house,' it is offered to be proven, that a copy was affixed upon the most patent door.

Replied; Where a messenger has access, he should offer a copy to some of the servants, and upon their refusal, affix it upon the door, conform to the said act 75th; and the quarrelled execution not bearing this, it appears to have been

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.

No 101.
A horning found null, because the execution did did not bear with whom the copy was left, or that it was affixed on the most patent door.

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.

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

1702. *July* 10. ADAM KEIR *against* JOHN ROBERTSON.

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.

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 domicil; but being delivered to him personally apprehended