

had right by disposition from the last Earl. *Alleged*, The horning is null, because the execution is not stamped, nor any vestige that ever there was any. For within this week, in the case of the Duke of Gordon, the LORDS sustained an execution, because there was the print and vestige of a stamp. *Answered*, They will do it, and abide at it. The Lord Kemnay reduced the horning, and found it null; and having reported it, the LORDS did the same. Now, by the 4th act of Parliament 1686, stamping is declared unnecessary.

No 130.

*Fol. Dic. v. 1. p. 267. Fountainball, v. 1. p. 402.*

1686. *March.* LORD CALLENDAR *against* LORD JOHN HAMILTON.

No 131.

IN a general declarator of escheat, it being *objected*, That the executions of the horning were null, because though a late horning, it did not appear to be stamped, conform to act 32. Parl. 5. James III., act 74. Parl. 6. James V., and many decisions, as March 6. 1624, No 128. p. 3778. &c.

*Answered*; That stamping, since the act of Parliament requiring the subscription of notaries, is not essential; and the execution itself bears to be stamped; and, *de consuetudine*, the very tearing and laying down of the paper is sufficient, without either wax or seal, which demonstrates, that stamping is but an insignificant solemnity; nor doth the late act, requiring witnesses' subscriptions to executions, mention it.

THE LORDS, in respect of the above mentioned acts of Parliament, and constant custom, found the [execution of] horning [null] for not being stamped.

*Harcarse, (HORNING.) No 516. p. 144.*

1688. *February 10.*

MR JOHN BUCHANAN *against* The NEAREST of KIN of one KER in Kelso.

No 132.

It being *objected* as a nullity in a horning, that though the executions bear to be stamped, yet no vestige of the stamp appears; and the executions are but a recent deed in *anno* 1682.

*Answered*; In fortification of the execution asserting itself to be stamped, it is offered to be proven, that at the outgiving of the process, a vestige of the stamp did appear, which is now lacerate.

THE LORDS found the answer relevant.

*Fol. Dic. v. 1. p. 267. Harcarse, (HORNING.) No 519. p. 145.*