

authentic legislative constitutions ; and so of the Scriptures ; and, here, what sense can be affixed to this adjective but the substantive *copy* ?

REPLIED,—The mentioning a copy is *inter substantialia* of a citation ; and hornings, being a penal confiscation of moveables, are to be strictly taken, for the ease of indigent debtors, and not to be extended.

The Lords found it a pure omission ; and, therefore, repelled the nullity, and sustained the execution.

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1709. *February 24.* MARY SOMERVILE, and JANET CUNNINGHAM, Petitioners.

MARY Somerville, daughter, and Janet Cunningham, grandchild to umquhile Nicol Somerville, writer in Edinburgh, gave in a bill to the Lords, representing, That young Nicol Somerville, her only brother, went many years ago as chirurgion to a ship bound for the Indies ; and the last accounts they had of him, was a letter to his father from Maryland, in America, *in anno 1703*, bearing, that, his father being now turned aged and infirm, he would, God willing, endeavour to see him shortly. Since that time they have never heard from him, whether he be dead or alive ; but fear the worst. That, by his absence, none have a title to manage or intromit with his estate, which consists in houses and bonds ; so the same are like to go to ruin or perish, whereby considerable damage has already emerged : and, therefore, craved the Lords may name a factor to set the houses, do diligence for the debts, and manage, either till his return, or some more certainty of his death be got : And which course the Lords took in a parallel case, *12th July 1704, with the Estate of John Dale, Sweden-pursevant.*

The Lords thought this desire reasonable, and appointed a factor ; but ordained him to find sufficient caution to make the same forthcoming to all parties who shall be found to have interest.

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1709. *February 25.* SIR ALEXANDER FALCONER of GLENFARQUHAR, Petitioner.

SIR Alexander Falconer of Glenfarquhar represented to the Lords, That he had taken a brief out of the Queen's chancery for cognoscing the Lord Halkerton to be furious and fatuous, by an inquest of fifteen sworn men ; and that it would be difficult to bring him to Stonehive, the head burgh of the shire, in respect of his circumstances : and, therefore, craved, that the Lords would authorise the sheriff to hold his court at the house of Halkerton, that he might be there sisted, and presented to the assize.

Though this desire seemed new, yet, the Lords having called for the brief, and finding its style prescribed no place, they granted the desire of this bill.

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