

No 25. and therefore preferred Simson, and found the letters orderly proceeded; but prejudice to Watson to raise his reduction for the duties in time coming.

*Fol. Dic. v. 1. p. 171. Stair, v. 1. p. 665.*

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S E C T. VI.

Objections to Hornings, whether proponable by Exception.

No 26.

Found, that a horning cannot be taken away by exception.

1583. July.

LOGAN *against* CARLILE.

THERE was ane Logan, who, having obtained the gift of the escheit of George Douglas of the Parkhead, pursued Michael Carlile for intromission with certain teinds pertaining to the said George.—It was *alleged* be the defendar, That the horning whairupon the gift proceeded was null in the self, because it was execute, and he denounced rebel at the market cross of Edinburgh and Lanerig; and truth it was, that he dwelt in the mean time in Kirthoril, and the said towns were not the head burghs of the shires whair he dwelt in the mean time, and swa conform to the last practice betwixt Angus and Home, *voce* EXECUTION, the said horning was null in the self; and that he offered him to prove conform to his allegiance, that he dwelt in the mean time in Kirthoril.—To this was *answered*, That he could not now be heard to oppone his allegiance, be way of exception; but the said horning ought to stand still quhill it were reduced *via actionis*, for otherways he would offer him to prove with the exception.—THE LORDS fand be interlocutor, That the horning could not be tane away be way of exception; *licet nonnulli dominorum in contraria fuerunt opinione*, that it was *nullitas juris* and might, conform to the act of Parliament, be tane away be way of exception.

*Fol. Dic. v. 1. p. 171. Colvill, MS. p. 236.*

1590. March.

COMMENDATOR of KILWINNING *against* LAIRD of BLAIR.

No 27.

Found as above.

THE Commendator of Kilwinning being put to the horn be the Laird of Blair, his grand-father, the gift of his escheat for being year and day at the horn, was taken to his own son; and upon the said gift they pursued for a declarator. Gavin Hamilton of Raplock having also obtained a gift of the Commendator's escheat and liferent, for being year and day at the horn, for some other cause,