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

No 102. elsewhere, it could not supply the defect of an execution against the wife who had the principal interest, the husband being only *pro interesse;* therefore, upon this informality, they reduced the inhibition as null *quoad* the wife, though the copy bore to have been given to the husband, both for himself and his wife.

Fol. Dic. v. 1. *p.* 265. *Fountainhall, v.* 2. *p.* 154.

1705. *Decdmber* 20. Scrimzeour *against* Beatson.

No 103.
Execution of apprising was sustained, though it did not bear a schedule to be left on the lands.

In a reduction of a comprising, pursued by Mr Harry Scrimzeour *contra* Beatson of Kilry, the following nullities were proponed against the executions; 1*mo*, That they were null, because they did not bear that a schedule was left on the ground of the lands.—*Answered*, That in the beginning of the execution, it bore that copies and schedules were affixed and left at all places needful; which generality being applied to all the subsequent condescendence in the execution, is sufficient to support it, though it be not mentioned in every particular, nor repeated. 2*do*, The execution was still null, because, by the 75th act, Parliament 1540, it is expressly required, that messengers executions bear, that they could not get entrance, and therefore gave six several knocks.—*Answered*, This point is in desuetude, and not in use to be expressed now in executions; but the knocking presumes and implies that the door was shut, and so he could not get entrance.—3*tio*, *Alleged*, All executions of apprising should bear three several oyeses at the market cross, whereas this bears only several oyeses without the word *three;* and for the want of this solemnity, the Lords found an execution of an inhibition and a summons null, 15th February 1681, Gordon *contra* Forbes, No 116. p. 3768.—*Answered*, 'Several oyeses' was the equipollent, and could not in common sense be interpreted of fewer than three.—4*to*, *Alleged*, This execution was further null, the debtor being minor, and his tutors and curators are only interlined, and not in the body of the execution.—*Answered*, This has been done *ex incontinenti*, and not *ex intervallo;* because it is evident by ocular inspection, that it is done all with one hand and the same ink, and they are expressly mentioned in the decreet of apprising, which proves it has been insert before it was extended, and the executions are narrated there.——The Lords repelled all these four nullities, in respect of the answers, and sustained the executions of the apprising as both legal and formal. Some proposed to cause search the registers, and see how the generality of such executions run, that the stile might be known; but the Lords thought there was no necessity for such an inquiry.

Fol. Dic. v. 1. *p.* 265. *Fountainhall, v.* 2. *p.* 301.