

HORNING.

1774. *August 5.* ANGUS M'DONALD *against* ROBERT RANKEN, Lyon Clerk Depute.

A BILL of horning on a decret of the Lyon Court, against a messenger, for not accounting for the contents of certain bills put into his hands to do diligence, and for the penalty of his bond of caution, as having failed in his duty,—having been presented, the Lords demurred. The statute insisted on for the Lyon, and to prove that horning was competent, was 1587, c. 46. But it was suggested, that letters conform, mentioned in the end of that statute, does not mean letters of horning; but a decret conform, properly so called. *Secondly*, The Legislature, by an express statute, 1644, authorised letters of horning on the Lyon's decreets against messengers,—which clearly shows that none such were competent before. But, *Stio*, This Act was rescinded at the Restoration; and therefore things were left as they were before this act was made. As to the practice, the clerk to the bills reported that only two hornings had, to his memory, been past on Lyon decreets; and these bills he had presented, not knowing that the Act 1644 was repealed.

The Lords, 5th August 1774, refused the bill.

They did the same *eodem die*, on an extract of a messenger's bond of cautionry registered in the Lyon books, bearing a consent to that purpose, *Robert Ranken* against *William Gillies*, messenger.

1777. *February 19.* MR DAVID DICKSON *against* MAGISTRATES of EDINBURGH.

HORNINGS pass on bills presented to the Ordinary, *sine causa cognita*; neither is it usual to allow parties, even where they appear, to be heard against them; their remedy is by suspension, see Kilkerran, p. . . . But, 19th February 1777, a bill of horning having been presented at the instance of Mr David Dickson against the Magistrates of Edinburgh,—the Lord Braxfield, Ordinary, ordered it to be intimated and answered. Mr Dickson's situation, in point of health, induced the Ordinary to take this method, however unusual.