

- No 3. of he craved declarator. Which the LORDS found enough against the defender, who, if he were not the pursuer's vassal, he might disclaim him to be his superior, and thereby might free himself of this declarator. In this same process, the LORDS found letters of horning null, whereby a person was charged to pay a particular stent, imposed by the minister and elders, and session of the kirk, upon the parishioners, for entertaining of a reader, and for not payment whereof, the person foresaid being one of the parishioners stented, was denounced, because the act of the stenting, which was the warrant of the charge and denunciation, was not subscribed by the parishioners, and by this person charged particularly, without whose consent and subscription, the minister, elders, and session had no power to impose any such burden, upon any of the parishioners, to burden either themselves, or their lands, and therefore found the horning null, *ope exceptionis*.

Act. Hope. Alt. Gilphant Clerk, Hay. Durie, p. 165.

- No 4. 1626. June 29. FOWLIS against The LAIRD OF CALDERWOOD.

HORNING being objected, and the rebel by consent of the principal party suffered notwithstanding to stand in judgment; if a third party admitted for his interest compear, and object horning in the same process, he will not be heard. Mr Robert Fowlis debarred the Laird of Calderwood to give his oath, the principal party not being against it. See PERSONA STANDI.

Spottiswood, p. 146.

- No 5. 1628. June 13. RULE against AYTON.

JAMES RULE having convened the Laird of Ayton for making count and reckoning with him of certain sums of money, which he had debursed in his affairs; the Laird's procurator compearing at the bar, and offering count and reckoning, the pursuer debarred him with a horning. The matter was much agitated, whether he could in an action of count and reckoning debar the defender, seeing the defender was content to give him all he craved, viz. the desire of his summons. Yet by manifest votes it was found, he being a rebel might be debarred.

Spottiswood, p. 149.

* * * See Durie's report of this case, *voce* PERSONA STANDI.