

bore it not, although it was offered to be proved by witnesses that it was shown.

No 4.

*Fol. Dic. v. 2. p. 212. Durie.*

\* \* \* This case is No 7. p. 2179. *voce* CITATION.

1628. November 7. MAXWELL *against* LD INNERWICK.

No 5.

FOUND a requisition null, because the procuratory was not read; and albeit the instrument was thereafter mended, and also referred to the Laird of Innerwick's oath that the procuratory was read, yet the LORDS would not sustain the requisition.

*Fol. Dic. v. 2. p. 212. Kerse, MS. fol. 85.*

1637. March 28. SCOT *against* SCOT.

ONE James Scot, son to Robert Scot of Satchels, being donatar to the escheat and liferent of the said Robert his father, Robert Scot, eldest son to the said Robert Scot elder, and brother of the said James, begotten upon a prior wife, pursues his said brother, donatar foresaid, for reducing of the horning, whereupon his father's escheat was taken, to the effect that he might have access to his father's liferent, conform to a contract, whereby he had disposed his liferent to him, and of the effect whereof he was prejudged by the said escheat, which the second son declared, he used for maintenance of his aged father, who wanted all other means whereby to live. The reason of reduction was, that the horning purported not, that six knocks were given at the rebel's dwelling-house, as in custom is requisite; and that the register of hornings, wherein this horning and executions are inserted, purported no such record of adhibiting of knocks. And the defender producing his horning, in the margin of the execution whereof were added these words, viz. (After the messenger had used six knocks at the party charged his dwelling-place,) at the verity, and truth of the doing whereof he abode, as it is now produced; for albeit he granted, that he had caused the messenger subscribe this margin since the registration, yet it was truly done; and also the words foresaid in the margin were extant so written, although then not subscribed at the time when the horning was presented to be registered, which the clerk-keeper has not inserted in the register, because it was not then subscribed; and the pursuer *replying*, That seeing it was not registered with that clause, and is confessed by the party was not then subscribed, the same therefore ought not to subsist; the LORDS sustained the horning, notwithstanding of the reason, the defender proving by the clerk-keeper of the register, and his servants, that when the horning was presented to be registered, the same had the foresaid marginal clause standing then, as if

No 6.

An execution of a horning, where the six knocks were mentioned only on the margin, was allowed to be supported by witnesses.