

No 97.

In conformity
with No 95.
P. 3755.

1676. *December 22.*A. *against* B.

It was questioned among the Lords, whether an inhibition could be sustained, albeit the execution did not bear a copy to have been affixed at the market cross; and it was resolved as to the future, it should be declared, that executions of inhibitions should be null, unless copies were affixed; in respect there can be no executions without giving of copies, either personally, or at their dwelling-house; and when the lieges are inhibited at the market cross in general, so that a copy cannot be given to every person, it ought to be left at the market cross *in subsidium*; but, because it was informed, that many executions did not bear copies to be left at the market cross, the Lords did forbear to give answer as to the inhibition in question, until the stile and custom should be tried.

Fol. Dic. v. I. p. 265. Dirleton, No 413. p. 202.

No 98.

1679. *December 11.* COUNTESS OF CASSILLIS *against* EARL OF ROXBURGH.

In an execution of arrestment, the Lords found no necessity of affixing a copy upon the most patent door, where a copy was delivered for the party to his wife, within his dwelling-house.

Fol. Dic. v. I. p. 264. Stair.

* * See This case, No 19. p. 3695.

No 99.

An execution
of a warning,
bearing that
' a copy was
left at the
house.' was
found null.

1684. *February.* SIR PATRICK THREAPLAND *against* SIR JOHN STRACHAN.

In a removing, it being *alleged* that the warning was null, in so far as the execution on it at the dwelling-house, did not bear six knocks, or that a copy was left and affixed upon the principal door, but only, ' that a copy was left at the house,' which might be true, though it was left at a back door, contrary to the act 75th, Parliament 6th, James V. and 39th act, Parliament 6th Queen Mary, anent warnings;

Answered; The first of the cited acts of Parliament doth not require knocks but when the doors are shut; and in fortification of that part of the execution, ' that a copy was left at the house,' it is offered to be proven, that a copy was affixed upon the most patent door.

Replied; Where a messenger has access, he should offer a copy to some of the servants, and upon their refusal, affix it upon the door, conform to the said act 75th; and the quarrelled execution not bearing this, it appears to have been