

whatever may be the case in ordinary executions of summonses, executions of diligences, which the law has appointed to be registrate for publication, must fully express all that the law requires to be done. And with respect to the notoriety, it imports nothing whether it was known to all the creditors or not, since notoriety cannot be understood to extend further than the vicinity; and personal creditors lending their money, cannot be supposed to have inquired where their debtor dwelt.

No 24.

*Fol. Dic. v. 3. p. 187. C. Home, No 267. p. 431.*

1745. July 27. DUNBAR and the other Creditors of DUNBAR, competing.

No 25.

WHERE an inhibition is regularly executed, and published against the party, it is no absolute nullity that it is not recorded in the books of every jurisdiction wherein his lands lye, but only *quoad* such lands as lye in a jurisdiction where it is not recorded; but where the inhibition as against the debtor is not duly published, however duly it may be published against the lieges, it will be of no effect whatever; and so it was here found. See this case reported by Lord Kames, No 34. P. 3705.

*Fol. Dic. v. 3. p. 187. Kilkerran, No 6. p. 287.*

1756. November 16. MALCOLM GORY *against* ANDREW DONALDSON.

No 26.

IN a ranking of the creditors of Nairn, it was objected by Donaldson, that an inhibition used by Gory was null, for that the execution of it bore, 'That a copy was fixed upon the door of the debtor's house, after the messenger had made six several knocks as use is, because he could not get the debtor personally;' whereas the 75th act, 6th Parliament, James V. authorises this method of execution in the case only when access to the house cannot be got, or the servants refuse to receive the copy; neither of which this execution bears.

It had been objected, that the execution of an inhibition was null, as it bore that a copy was fixed upon the door of the debtor's house after the messenger had made six knocks, because he could not find the debtor personally; which method of execution is authorised by law only when access cannot be got, or the servants refuse to receive the copy. The objection was repelled.

*Pleaded* for Gory; *imo*, The same objection was made to the execution of a horning 30th July 1696, Sinclair *against* Lord Bargeny, Div. 4. Sec. 7. *b. t.*; and to the execution of an apprising 20th of December 1705, Scrymgeour *against* Beatson, *IBID.*; and was in both cases repelled. As the same act which regulates the form of the execution of hornings and apprisings, regulates the execution of inhibitions, the same judgment ought to be given in this case; more especially as the execution against the lieges was undoubtedly formal and the inhibition registered, so that Donaldson cannot pretend to have contracted *bona fide* with the person inhibited.

*Pleaded* for Donaldson; The decisions are not in point; for that there the execution bore, that the messenger gave six knocks; and this implied that he sought entrance: the execution of inhibitions must be precisely formal; for that by them the preference of creditors is regulated. And therefore an execu-

No 26. tion of inhibition was found null, because it only bore several knocks, and not six knocks, 29th of July 1680, Hay against Pourie, Div. 4. Sec. 7. *b. t.* Neither does the formality of the execution against the lieges vary the case; for that he who sees that an inhibition upon record is null, by reason of its informality, may *bona fide* contract with the person inhibited, in the same manner as he may contract, who sees that a sasine upon record is null by reason of its informality.

'THE LORDS repelled the objection.'

Act. Gory, Græme. Alt. Nairn, Rae. Reporter, Woodhall. Clerk, Gibson.  
Fol. Dic. v. 3. p. 187. Fac. Col. No 206. p. 316.

No 27. 1779. November 23. DOUGLAS and HERON *against* ARMSTRONG.

A SUMMONS having been executed in time of vacation against an advocate at his house in Edinburgh, while he was residing at his estate in Dumfriesshire, attending the duties of his office as Sheriff of that county, was found a valid execution.—See APPENDIX.

Fol. Dic. v. 3. p. 187.

1783. January 26. MATTHEW LITTLE *against* The CREDITORS of Tundergarth.

No 28.  
Edictal citation of a party as forth of the kingdom, when he was in Scotland, null.

THE Viscount of Stormont, superior of the lands of Tundergarth, after an absence of several years from Scotland, arrived there in the beginning of August 1779, and returned to England on the 18th of September following.

On the 26th of August of that year, Matthew Little, who had adjudged these lands from the vassal, executed a charge against his Lordship as forth of the kingdom; and having insisted on his diligence as the first effectual, the other Creditors *objected* that the charge ought to have been executed by personal citation.

THE LORD ORDINARY sustained the objection. And to this judgment the LORDS adhered, upon advising a petition for Matthew Little without answers.

Lord Ordinary, *Braxfield.* For the petitioner, *Henry Erskine.*

Fol. Dic. v. 3. p. 187. Fac. Col. No 84. p. 131.