

can be loosed. Hence the deliverance of all bills for loosing arrestments bears, If the same be not laid on by virtue of a decret.

Advocates' MS. No. 232, folio 107.

ON a Baron's decret or rollment of Court, the Lords will not grant by letters of horning summary execution, because of the meanness of their jurisdiction; and that the acts of Parliament, viz. act 10 *anno* 1606, and act 15, 1609, &c. appointing letters of horning to pass on sheriffs, stewarts, bailies, (as well of royalty as regality,) admirals, and commissaries, (though they are only foisted in by a wrong narrative in the said act 1609,) their acts and decreets, make no mention of baron courts; and therefore when horning has been craved on the decreets of the bailies of Leith, it has been refused because it is only a burgh of barony; (yet horning passes on the decreets of the first bailie there, because he has a sort of admiral power;) and the sole execution can pass upon such, is the baron or his bailie their precept to their officer for poinding the defender (if so be he was subject to their jurisdiction,) his goods or geir lying within the barony: the apprising whereof, in my judgment, should not be at the market cross of the head borough of the sherifdom or regality wherein the barony lies, seeing that is *extra territorium*; but at the place where the baron court is kept, which undoubtedly will suffice. And if the baron or other person who has recovered decret before the baron bailie would have letters of horning on his said decret, he must suit letters conform, either before the sheriff or Lords of Session, or crave the defender to pay such a sum contained in the rollment of court, and produce his said decret *in modum probationis*, and then on the decret conform given by the sheriff or Lords, he will get *paratam executionem* by horning. And truly it is just it should be so, because of the universal ignorance of the baron bailies; and seldom there are any thing proponed for the defenders, but allenary, The bailie having considered the complaint of sic a man against sic a man, found——. Yet if a man be decerned in such a court for contumacy in refusing to give his oath, the matter being referred thereto, and he being present in Court, I think the Lords should not repone him again to his oath.*

Advocates' MS. No. 233, folio 107.

ANENT LETTING OF DEBTORS' LANDS.

WHERE a creditor (whether he be compriser or infetter,) is in possession of the debtor's lands, and finds the same so racked that if the tenants get not an ease in

* *Infra*, May, 1676, No. 474 [Hamilton, Historical Volume;] and 496, § 2, [Balfour against Pidgeon, 10th October, 1676, Historical Volume.]