

No 25.

of the parties, the LORDS, by voting it over again, ordained it to be signed *in presentia*.

THE LORDS sustained this nullity of the decret, that the decerniture or warrant thereof was not signed by the Judge ; and therefore reduced the same.

Fol. Dic. v. 1. p. 204. Forbes, p. 265.

SECT. VI.

Informal execution.—Term of entry.—Sentence-money.

1624. June 17.

CRAWFORD *against* WOOD.

No 26.

A decree was found intrinsically null, without reduction, because the execution of citation wanted witnesses, although such executions were customary.

IN a suspension betwixt Crawford and Wood, the LORDS found a decret given by the Provost and Bailies of Edinburgh, which was suspended then, to be null summarily, without reduction ; because the same was given against the suspender, as holden as confest, being summoned to give his oath by one of the town officers, and his execution having no witnesses, in respect whereof, that citation was found could not be sustained, and the decret therefore was null ; albeit it was *alleged* against the suspender, that the form within the burgh of Edinburgh, was, that executions made by their officers, were made without witnesses, and that the officers were sworn in judgment, upon the verity of their executions ; which form the LORDS would not allow, because thereby the ordinary mean of improbation, viz. by the witnesses, was taken away.

Clerk, *Scot.*

Fol. Dic. v. 1. p. 204. Durie, p. 129.

1626. July 25.

DICKSON *against* ANDERSON.

No 27.

Found as above, where the custom was to cite parties without any written execution.

IN a reduction betwixt Dickson and Anderson of a decret obtained before the Bailies of Dumfries, decerning Dickson to pay 500 merks, being referred to his oath, and not compearing, &c.,—this decret being desired to be reduced, because he was never warned by any officer to compear ; and the executions being called to be produced, and to be improven in this process, the defender compearing, and *alleging*, that in their burgh-courts their custom was to command their town-officers to pass and warn parties to compear before them, and