But now as to the question itself, How far the Lords are obliged by law to give warrant for horning in this case? It was observed, that while apprisings were in use, the superior was by statute bound to receive the appriser, as now the adjudger; but then he could not be charged so to do upon the apprising, as being only pronounced by messengers as Sheriffs in that part; but such charge proceeded upon the allowance, which was in effect a decree of interposition by the Court of Session, and wherein there was an express decerniture against the superior. No 22.

But where adjudications *cognitionis causa* proceeded before the Session, the custom originally was, after such decree of adjudication *cognitionis causa*, to raise a new process against the superior, and upon the decree following thereon, the charge against the superior proceeded. But this process the Lords came to dispense with as unnecessary; and, in the very decree of adjudication, to decern against the superior. From the example whereof, it seems to be, that Sheriffs have in their decrees also fallen into the use of decerning against the superiors, which was agreed to be beyond their power.

For as to the act of Parl. 1606, cap. 10. which requires the Lords to direct letters of horning on the decrees of Sheriffs, it was plain, that only respected decrees for payment or performance against parties regularly called before them. Whereas, in this case, the decree against the superior is a decree against a blank person, and who may even not have been resident within the Sheriff's jurisdiction at the time.

THE LORDS therefore found as above, as there was no law whatever authorizing such horning.

Kilkerran, (ADJUDICATION and APPRISING.) *No* 13. *p.* 9.

1743. *November* 2. HOME CAMPBELL, Petitioner. No 23.

THE House of Lords having, upon appeal, reversed a decree of the Court of Session, and remitted back with orders for that Court, to give all necessary aid for carrying the judgment into execution; application was made by the prevailing party, for warrant for letters of horning in common form. THE LORDS thought the proper method was to give decree for the sum in the judgment, on which letters of horning might, in common course, be applied for.

Fol. Dic. v. 3. *p.* 275.

*** See Lord Kames's report of this case, *voce* SUMMAR APPLICATION.

1750. *February* 24. FERGUSSON *against* HERON. No 24.

A bill of horning cannot be stopped upon

HERON of that ilk, becoming purchaser of the lands of Clouden, at a judicial sale before the Lords, Fergusson of Halhill, was, by the decree of division,