

Answers to Dirleb. Doubts Gt. Horning.

Horning and Executions must within 15 days after Denunciation be registered in the Books of the Jurisdiction where the party due to be 264 Par. 15 J. 6 June. del 75 Par. 6 J. 6. Or in the General Register at Edinburgh all 13 Par. 16 J. 6. Horning for a criminal Cause must be registered in the Books of a Journal del 140 J. 6. McHenry observe on del 75 Par. 6 J. 6. Horning was formerly registered after the Rebels death; He having been denounced before and the Registration within the time required by law 2 Decemb. 1620 L. Lee contra Blair's Rebut. Horning against Blair's Rebut. no Registration at all del 142 Par. 8 J. 6. It being hard to put the Parties to so much Expenses. Registered Denunciations Horning hath the following effects. 1/9 The out Law hath no Personam stand in Judicio either as pursuer or Defencer. Any person may Debar his adverse party from appearing in Judgement to pursue or defend by producing a Horning against him, albeit the person at whose instance the Horning was granted dissent and would not have it used to that purpose 18 Feb. 1630 Wright contra Wright. But Denunciation on General Letters doth not Debar the party from having personam stand in Judicio 21 January 1674 Blair of Glasgow contra Blair of Dalrye Blair lib. 3 Jil. 3 § 13 Defencers cannot be Debarred from proposing that which requires their personal presence as if they were cited with sufficient citation, that if they compare they shall be held as confessors, or their Evidence deemed or judged as false and forged; The Lord would not hold him as pursuer or reduce their Writs if they be comparing and Debarred with Horning 12 July 1676 Purves contra Schew Blair ibid. § 15 lib. 4 Jil. 47 § 11 Jit. 52 § 3. Because the Reasons of these Denunciations viz. that they do not depone for that they are conscious they believed to be false, or do not produce their Writs because they know them to be forged, cease in this case, when they are hindered to appear. Absignation to a plea granted for Cedito Beliof, after himself has been Debarred as agendo in a Registered Horning Judicially produced, was sustained to afford process to the Pursuer who had personam standi; without regard to the personal objection against his Cedito Beliof. Continued

Continued Still unreleased at the Horn 10 July 1706 Young contra Young. But where the suspender of a Decree Against him was Debarred by Horning at the Pleas of Instance, the Condition in the suspension was not allowed to insist therein; in respect he was not responsible forable to pay the debt in case the Letters were found orderly proceeded 6 March 1632 Reids contra Dalrye Blair's Lib. 20 also Release persons Incarcerated (who are not able to find Caution) to the effect their fault may be Dismissed while they are in Prison Blair lib. 7 Thus the Lords of Session upon one's application granted to him a suspension of all Hornings against him therein contained to have effect only to give him personam standi in Judicio without stopping any other Execution at the Instance of his Creditors 7 Decemb. 1669 Sir J. Dalrye bar. 100 lib. 10. Denunciation at the Marshal Cross of Edinburgh where the party doth not live will not be liable to be put to Execution in any part of the Kingdom 4 Blair contra Blair. 20 from the date of the Denunciation, the Debt or out Law, shall be deemed paid to the King or to the Lord or Bailie of the shire, and may be recovered from him by Justice to Execution of the said Debt being within the bounds of the shire of the Jurisdiction. But Capital to not be by Denunciation upon General Letters Blair lib. 3 Jil. 3 § 13 lib. 4 Jil. 3 § 25, Dallas Cyles Par. 6 J. 6. By Denunciation at the Marshal Cross of Edinburgh of persons living in another shire, Dallas ibid. Escheat of the peer is not due upon Denunciation against them for not appearing to bear witness, but only for non appearance in Cause Blair lib. 4 Jil. 47 § 9 McHenry observe on del 75 Par. 6 J. 6. because it were hard to make ones Escheat to fall for a Negligent Contumacy. And Sir George McHenry observe on del 264 Par. 15 J. 6. Doubts whether the escheat of one out of Scotland will fall upon Denunciation against him at the Marshal Cross of Edinburgh and peer of Leth 30/44 the out Law continue year and day at the Horn unreleased, his life rent escheat goes to the superior of his lands. 4/9 The person Denounced cannot, if Insolvent, do any deed Effectual against the Denouncer which he was not obliged specially to do before the Denunciation Blair lib. 4 Jil. 47 § 9. 5/ After a person