No 6. now bears, and also proving by the messenger and witnesses, the truth of the act, viz that the knocks were given, as the same purports; and this was the rather done, because the Lords found, that this reduction was pursued to the father's prejudice, whereas the defender used the gift to his father's sustentation.

Act. ——. Alt. *Sandilands.*

Fol. Dic. v. 2. *p.* 213. *Durie, p.* 843.

1662. *January* 18. Veitch *against* Byel of Bassinden.

No 7.
Premonition by a procurator sustained, though it did not bear that the procuratory was shown.

Mr John Veitch, as assignee by John Edgar of Wedderlie to a reversion, pursues declarator against Byel of Bassinden, the wadsetter, who *alleged*, Absolvitor, because the premonition is null, being by a procurator, and not bearing the procuratory produced, neither the pursuer's assignation to the reversion. The pursuer *answered*, *Non relevat*, unless it were alleged, that they had been demanded at that time, and had not been shewn; 2*do*, If need be, he offers him to prove, by the defender's oath, that the procuratory was then shown. The defender *unswered*, The procuratory is not yet produced, and the pursuer was obliged to have shown it then, albeit not called for.

The Lords sustained the order, the pursuer re-producing the procuratory, and proving by the defender's oath, that the procuratory was then shown.

Fol. Dic. v. 2. *p.* 212. *Stair, v.* 1. *p.* 83.

*** The Lords refused to sustain an order of redemption to be proved by witnesses, 12th January 1677, Jaffray against Wamphray, No 19. p. 3630 *voce* Escheat; and No 16. p. 8340. *voce* Litigious.

1667. *November* 12.

Duke and Dutchess of Monmouth *against* Scot of Clerkington.

No 8.
Found, that requisition and such *actus legitimi* cannot be proved but by instruments perfected as to all necessary solemnities, at least the minutes of the same under the no-

Requisition being made by the Duke of Monmouth and his Lady to Sir Laurence Scot of Clerkington, for a sum of money, but the notary having deceased before his instrument of requisition was extended, and there being only a minute of the same unsubscribed, the said Duke and Dutchess pursued Clerkington for extending and making up the instrument; and craved, that Clerkington and the witnesses might be examined to that purpose; and that upon probation, that the requisition had been made conform to the said minute, an instrument under the clerk-register's hand should be equivalent to an instrument.

THE LORDS refused the said desire, in respect the said minute was neither subscribed by the notary nor in his protocal. No 8.

And that requisition and such *actus legitimi* cannot be proved but by instruments perfected as to all necessary solemnities, at least the minutes of the same under the notary's hand. And though the debtors or party concerned may know such deeds were done *de facto*, they may be ignorant, and are not obliged to declare, whether they were legally done or not.

Act. *Lockhart.* Alt. *Spottiswood.*

Fol. Dic. v. 2. *p.* 212. *Dirleton, No* 102. *p.* 40.

tary's hand; and though the debtors or party concerned may know such deeds were done *de facto*, they may be ignorant, and are not obliged to declare, whether they were legally done or not.

1671. *July* 28. KEITH *against* JOHNSTON.

AN inhibition being null, the execution not bearing delivery of a copy, the LORDS, after registration of the inhibition, would not admit this to be supplied by a proof, that a copy was truly delivered, in prejudice of a singular successor, who purchased upon the faith that the execution was null. No 9.

Fol. Dic. v. 2. *p.* 213. *Stair.*

*** This case is No 143. p. 3786. *voce* EXECUTION.

1676. *July* 10. STEVENSON *against* INNES.

THE LORDS found, That executions of inhibitions, as well as hornings at the market-cross, must bear the particular solemnities of three several o-yesses and public readings, and cannot be supplied by witnesses, although the execution bear in general to be lawfully executed. No 10.

Fol. Dic. v. 2. *p.* 213. *Gosford. Stair.*

*** This case is No 145. p. 3788. *voce* EXECUTION.

1680. *November* 12. BROWN *against* WILSON.

BROWN having pursued Thomas Wilson upon this ground, that he had assigned to Wilson a debt due by the Countess of Winton in trust, by which he was obliged to do diligence, and did it not till the Countess was dead, being a liferenter, having neither heir nor executor; the defender *alleged*, That this cause being called in February last, the libel was referred to the defender's oath, who deponed, that he had received that assignation for obtaining satisfaction to himself of a debt due by the cedent, but upon express terms in words, that he should be obliged for no diligence, but take the money if he got it, whereupon he was assoilzied by the Ordinary, but the clerk forgot to minute No 11. Minutes of process cannot be made up *ex intervallo* by the oaths of the advocates upon the other side, nor by oaths of the clerks and judges.