

D I V I S I O N II.

Where Parties must be Cited, and Execution done.

S E C T. I.

Execution against a Party within the Kingdom, must be personally, or at his dwelling-place.

1679. December II.

The COUNTESS of CASSILLS *against* The EARL of ROXBURGH.

THE Countess of Cassills having arrested several sums belonging to the Earl of Roxburgh, for payment of her life-rent-annuity due by him, pursues to make furthcoming. The defender *alleged* no process, because the arrestment is null, the execution not bearing to be personally apprehended, nor yet at his dwelling-house with six knocks, or any copy to be affixed upon the dwelling-house door, as is required by the act of Parliament.—It was *answered*, That the execution is opposed, which is conform to the act of Parliament, requiring only six knocks when the executor gets not entry; but if he get entry, and find not the party present, the delivering a copy to the party's wife, bairns, or servants, is ordered; but if they will not receive the copy, it is then to be affixed upon the door; but this execution bears a copy to be delivered to one of the party's wives, and another to the son.

THE LORDS found no necessity of knocks where the doors were patent, nor of affixing a copy where a copy was received in the party's dwelling-house; but this execution bearing, 'delivered to the party's wife and son,' they would not sustain the same, unless it were added by the messenger, and abidden by, that it was delivered to them in the party's dwelling-house.

Fol. Dic. v. 1. p. 259. Stair, v. 2. p. 719.

1684. February I.

ANDERSON *against* ANDERSON'S TENANTS.

AN execution at the party's shop, by delivering a copy to his wife, was not found sufficient, unless the pursuer would offer to prove, that the shop was a part of the dwelling-house.

Fol. Dic. v. 1. p. 259. P. Falconer.

* * * See This case, No 83. p. 2857.

No 19.
An execution, bearing a copy delivered to the party's wife, was not sustained, unless it were added, that it was delivered to her in the party's dwelling-house.

No 20.