in the Bailie court books of Carrick, and if it was only *actus necessitatis* or optional to them. But it was not decided, because it was remitted to some of the Lords to settle them.

No 124.

Fol. Dic. v. 1. *p.* 267. *Fountaidhall, v.* 1. *p.* 731.

*** The like was found 20th December 1705, Scrimzeour against Beatson, No 103. p. 3758.

1702. *July* 17. BIGGAR *against* WALLACES.

No 125.
An execution being left with some of the family at the defender's house, there is no necessity for the execution mentioning the knocks being given.

WILLIAM BIGGAR of Wolmet, as creditor to the deceased Sir William Wallace of Craigy, pursues Mrs Jean and Margaret Wallaces, his daughters, as lawfully charged to enter heirs, to the effect they might renounce, and he adjudge. —*Alleged*, No process; for the summons is executed on the same day with the charge to enter heir, and both executions are given *simul et semel*; whereas the 40 days on which the charge proceeds ought to be expired and run before the summons can be executed, because the libel narrates, they are lawfully charged to enter heir, and is expressly relative thereto, and so in the order of nature ought to precede the summons.—*Answered*, By the fixed custom and practice they may be both executed in one day, the charge to enter heir being first given, providing there be 21 free days given after the out-running of the 40 days appointed for the general charge, for the first diet, and six free days for the second; all which is punctually observed here, and which is introduced for the ease of the subjects, and diminishing their expenses on messengers.——THE LORDS repelled the dilator in respect of the answer.—2*do*, *Alleged*, No process; because, though the execution bears not personally apprehended, but only a copy left with some of the family at the defender's dwelling-house, yet it does not mention six knocks given, as the law requires.—*Answered*, This is no nullity; because the 75th act 1540, regulating these citations, only requires six several knocks at the most patent door, where the messenger is denied entry and access, and he finds the doors shut; but here there was patent access, and copies left with persons in the family, and so no need for the knocks; and it was expressly so determined by the Lords on the 11th of December 1679, the Countess of Cassillis against the Earl of Roxburgh, No 19. p. 3695.——THE LORDS likewise repelled this dilator, and sustained process.

Fol. Dic. v. 1. *p.* 267. *Fountainhall, v.* 2. *p.* 154.

1707. *June* 12. DUFF of Drummoir *against* GORDON of Achintoul.

No 126.
An execution of an inhibition was

DRUMMOIR having purchased in the preferable rights upon the estate of Anderson of Westertown, he pursues a sale and ranking of the creditors; wherein