CAPTIVE.

1546. *July* 31. JOHN HOME of Blackader *against* NINIAN CHERNSIDE.

GIF ony of our Soverane Lordis liegis be taken be his enemies, and haldin be them in captivitie or prisoner, he may not be callit and perseuit induring the time of the captivitie and subjection, for ony action of spuilzie, ejection, thift, slauchter, murther, or uther cause, civil or criminal, done or committet by them, or ony of thame, until he be releivit, and restorit to libertie.

Fol. Dic. v. 1. *p.* 120. *Balfour,* (DEFENDER.) *p.* 296.

⁎ Execution by horning may go on against a captive. *See* Oliphant against Innes, from Sinclair MS. *voce* LEGAL DILIGENCE.

1753. *July* 20.
ALEXANDER JAMIESON, Sailor in Torry, *against* WILLIAM HUTTON Ship-master in Torryburn.

IN 1746, William Hutton went a voyage from Torryburn to Gottenburgh as master of a vessel called the Loyal James, having on board seven hands ; and, in his return home, the vessel sprung a leak, and was ready to perish, when a French privateer, happening to come up with her, took the crew on board, and immediately the Loyal James sunk.

A few days after this, the privateer, meeting with a Dutch ship, put the whole crew of the Loyal James on board of her, except Alexander Jamieson, who was detained as a hostage that an equal number of French prisoners might be released ; and it appeared from a proof, that William Hutton had suggested to the Captain of the privateer, that Alexander Jamieson was the properest person to be detained. Jamieson was carried to Dunkirk, and remained prisoner there for five months, when an exchange of prisoners was made.

After his return to Scotland, he brought an action against William Hutton for his wages and maintenance during the five months he had been detained prisoner.