

No 20. tue of charges of caption executed against him *eo nomine* as the Bishop's Bailie, to take rebels; and that no such charges shall take effect against him, to cause him take rebels in time coming; the LORDS sustained this action, and the general desire of that summons, albeit one party was only called thereto, who had executed the like charges against him *eo nomine*; and the LORDS found, that Bailies to Bishops, or Baron-bailies, are not subject in law to apprehend rebels; these Barons, or Bishops' lands, not having regality, nor some other the like or more sovereign power of jurisdiction, than as Baron or Bishop's Bailie.

Act. *Nicolson.*Alt. *Scot.*Clerk, *Gibson.**Fol. Dic. v. 2. p. 166. Durie, p. 293.*1628. *July 18.*CRIGHTON *against* WATSON.

No 21.

ROBERT CRIGHTON Sheriff in that part of \_\_\_\_\_, viz. Dumfries, being charged by Andrew Watson to take the Laird of Otterburn, suspends the first charge, alleging it to be null, because the charger did not show the rebel to him, nor offered to go with him foot for foot to search for him. To which it was *answered*, That not only the Sheriff did no diligence after the charge to take the rebel, but it was offered to be proved by the Sheriff's oath, that he saw him diverse times after the charge. THE LORDS ordained the letters to be put to farther execution.

*Fol. Dic. v. 2. p. 167. Auchinleck, MS. p. 213.*

No 22.

1628. *November 18.* RAE *against* BAILIES of DALKEITH.

A MESSENGER charges J. D. and A. W., Bailies of Dalkeith, to apprehend the Laird of Mains, on Sunday, at the instance of James Rae, and the messenger delivered but one copy to one of the Bailies instead of both. J. D. suspends the charge, because he got not a copy; *2do*, By an act of Council messengers are discharged to execute any letters of caption on Sunday. THE LORDS repelled the first reason, but found the second relevant.

1628. *November 19.*—The like was decided; but it being *replied* that the pursuer offers to prove, that the rebel was in company of the said Bailies one or other of them, since the said charge, within the bounds of the regality. THE LORDS found the reply relevant to be proved by the oath of the defenders.

*Auchinleck, MS. p. 22.*

\*\*\* Durie's report of this case is No 94. p. 3754., *voce* EXECUTION.