

## ABBEY.

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1736. *June 25.*      MUNRO *against* M·MILLAN and GILLIES.

No. 1.

THE Lords thought the abbey of Holyroodhouse a sanctuary as well against debts due to the Crown as to the subject. *2dly*, That even for debts contracted in the abbey, letters of caption under the signet could not be executed, though the Bailie might by his own authority imprison them, or put the debtors out of the sanctuary: But did not decide either of these, because, *3dly*, They thought they were not to interpose in executing Justice of Peace warrants of imprisonment, and therefore refused to recommend to the Abbey Bailie to give his concurrence in executing such a warrant for a Crown's debt, the duty on painted or stained paper.—But I find a declaration of council, 14th March, 1678, mentioned by Fountainhall,\* That the abbey should not defend any who were owing to the king for excise, customs, feu-duties, &c. But this was not mentioned in the above case, nor I believe known to any in the Court.

Whether a sanctuary against diligence for Crown debts?

\* The following are Lord Fountainhall's words: "The Lords of Secret Council declared, the flying to the abbey should not defend any who were owing to the king, either for excise, custom, feu duties, &c. But if we please to go farther, we shall find the abbey of Holyroodhouse was made a general sanctuary, because when the king was there in person, it had been most improper there should be any disturbance, by executing captions, &c. since under that pretence, traitors might convocate against his Majesty's own person; *ergo cessante ratione legis*, it ought not to protect against the king's rebels when he is absent, and there is no such inherent sanctity due to the place; and upon this ground is founded the ratio of the 173d (177) act the Parliament 1593, against wounding persons in the king's own palace or chamber, he being present. Protections granted to debtors, called in law *supersederes & rescripta moratoria*, are another grievance; and my Lord Duke of Lauderdale, in January, 1678, in pique that he was outvoted in a protection by Lord Seaforth and Sir George Kinnaird, caused make a most strict and severe act against protections, albeit he was told there was already an act of Parliament in 1663 against them."

*Fountainhall, MS.*