

debtors to satisfy their just and lawful debts.—THE LORDS allowed trial to be taken of the time of his being apprehended, and the manner how he was detained, or if he offered to go back to the Abbey, and was enticed to stay, and hindered to go out; but repelled the second reason founded on the Queen's indemnity, and found it did not extend to take off the effects of captions for civil debt, prior to the date thereof.—For executing captions on the Sunday, see Durie 4th July 1628, *Rachlet contra Lauder*. (See LEGAL DILIGENCE.)

Fol. Dic. v. 2. p. 361. Fountainhall, vol. 2. p. 518.

No 3.

1741. June 12.

HAMILTON of Redhouse *against* JAMES HALIBURTON, Bailie-Depute of the Abbey of Holyroodhouse, &c.

REDHOUSE having retired to the Abbey, information was exhibited to the bailie by some of his creditors, setting forth, That he had money in his pockets, but that he refused to pay any of his debts with it; and that he had said he was resolved to fly out of Scotland with it; therefore craving warrant to apprehend and search Redhouse, and to take what money should be found in his pockets from him: The bailie accordingly, without requiring an oath of the informers, or granting a warrant to bring Redhouse before him for examination, granted the desire of the creditors petition against Redhouse, who had not been booked in the bailie's books; and which warrant having been accordingly executed, and L. 5 Sterling taken from him, he, to redress these grievances, brought a process against the bailie, &c. for damages.

THE LORDS found, That, in consideration of the act of the Abbey-court in the year 1697, and practice agreeable thereto, of putting captions in execution against persons not booked, it was lawful for the bailie of the Abbey to grant his concurrence complained of, for putting the caption in execution. And found, That, in consideration of the signed information exhibited to the defender Haliburton, by the other defenders, it was lawful for Haliburton to grant the warrant complained of to seize and search the pursuer.

Fol. Dic. v. 4. p. 260. G. Home, p. 287.

No 4.
The bailie of the Abbey found entitled to grant warrant to search for money about a debtor, who had taken refuge there, but had not been entered in the books.

1749. July 26.

HUSBAND *against* CAIRNIE.

IN an action at the instance of Paul Husband merchant in Edinburgh, against Alexander Cairnie, late prison-keeper in the Abbey of Holyroodhouse, for payment of a debt of L. 8:7s. Sterling, due to him by George Beveridge, and which Beveridge had contracted while in sanctuary in the Abbey; on the ground, that Carnie, while jailor of the Abbey prison, had allowed Beveridge, imprisoned at the instance of another creditor, to go out of prison, although arrested by

No 5.
The keeper of the Abbey prison liable, if a debtor escape through his fault.
The manner of the imprisonment in the Abbey prison.