

any place or places, in order to execution of such diligence, is unwarrantable, illegal, and oppressive, and opens a door to high and grievous exactions from ignorant, distressed, and indigent persons; and found the said Alexander Ross hath been guilty of gross malversation in exercise of his office as messenger, by taking security for and charging exorbitant sums from the said Mr John Monro, under colour of fees and expenses, and for pains in going and coming to and from certain places, in order to the execution of caption for small sums, where no caption was truly executed, and particularly, &c. and therefore they deprived him, the said Alexander Ross, of his office of messenger at arms, and declared him incapable thereof in all time coming, and fined and amerced him in the sum of L.10 sterling, to be instantly paid into the hands of the clerk of Court, to be applied in such manner as the Lords should direct. And in respect of certain alleviations pleaded in behalf of the said Alexander Ross, they thought fit in this instance to proceed to no higher punishment. And the Lords ordained this judgment, for the better publication thereof, as a caution to messengers in time coming, to be recorded in the books of sederunt, and an extract thereof to be transmitted from the clerk of this Court, to be recorded in the Lyon Court book, to be published by him in the ordinary form.

No. 2. 1749, Feb. 28. *LIEUTENANT HOPE against DRUMMOND AND NICOL.*

LIEUTENANT HOPE, (13th January 1749,) represented that his father was become fatuous, and was by his friends committed to the Infirmary for his recovery; that while he was there, Drummond, the messenger, pretending to have a caption, broke into the room, though told what condition he was in, carried him to a tavern, gave him drink, robbed him of money, and then left him in the tavern, where he committed some outrages, and afterwards in the streets, till his friends got hold of him; and therefore praying by two several petitions, one to punish Drummond, and the other for warrant to the petitioner his son to detain him in the Infirmary, and produced a certificate of his condition from a physician. We gave a warrant to seize Drummond, and remitted the petition to an Ordinary to enquire into his condition, and report, and in the mean time granted warrant to detain him in the Infirmary.

28th February 1749.—Drummond executed a caption against the now deceased Sir Alexander Hope in the Infirmary, whether he had some days before been sent by advice of physicians for madness, and carried him to the house of one Little, a taverner, and after getting from him L.4, which he gave to his employer, Mrs Nicol, left him there, and after some rioting in the streets, he was sent back to the Infirmary, where in a few days he died. The son complained both of the messenger and Mrs Nicol; and a proof was led; but on an objection that her husband was not called, was delayed till June. As to the messenger John Grant, who was ordered to serve him, argued, and argued well, that Sir Alexander's disorder was no excuse to the messenger not to execute the King's letters; and Dundas, for the complainer, in effect gave it up, but argued it as an illegal, oppressive execution;—and the Lords found it illegal, and with a malevolent intention, to extort money; and deprived the messenger both of his office of messenger and notary, (which he also was,) and committed him for a month to prison. I doubted of the sentence, but gave no opinion.