

- No 6. petent to turn him out of his office by such an application to the Court of Session without first applying to the Lyon, against whose sentence there might be an appeal to the Court of Session, not otherways. Elchies said, That if the Lyon should name one to be a messenger who is infamous by a public sentence, or otherways rendered incapable, remeid might lie by a suspension; but was of opinion with the President in the present case. With regard to the number of messengers, the Court was of opinion, that the Lyon, heralds, and pursuivants, are not to be counted upon to fill up the number of messengers for the county of Edinburgh.

*Fol. Dic. v. 4. p. 1. Rem. Dec. v. 2. No 55. p. 84.*

No 7.

The executors of legal diligence ought to have access to the Castle of Edinburgh.

1751. July 4. THOMAS BELSHES *against* CORAN and KINLOCH.

THOMAS BELSHES, Deputy Sheriff-clerk of Edinburgh, complained upon Richard Coran, Lieutenant Governor of the Castle of Edinburgh, and David Kinloch of Conland, Lieutenant in the said Garrison, for that he being pursuing an action of sale of Mr Kinloch's estate, had obtained a second diligence against him, to exhibit the rights thereof, but that the messenger going into the Castle to execute the same, was stopt by the centinel at the gate, who said he had orders for that purpose from Lieutenant Kinloch, whom he was bound to obey; whereupon he returned an execution of deforcement.

*Answered.* It is allowed the King's letters must be executed within the Castle, as well as in any other place; but the nature of the case shews they cannot be executed in the same precise manner, or without some precaution to prevent abuses, or prejudice to the King's service: A messenger having got access to the Castle, and apprehended Campbell of Burnbank, an officer therein; and the Governor having ordered the gates to be shut, till the messenger dismissed him, the LORDS, 15th Dec. 1714, M'Kay against Campbell, *voce* SANCTUARY, assoilzied the Governor from a complaint then made; but ordained him to deliver Burnbank to any messenger, having the caption, and demanding him, in case of his being in the Castle at the time of the demand.

There is no act charged upon either of the respondents; but only that the centinel refused access, and said he had orders from Lieutenant Kinloch.

THE LORDS assoilzied the respondents from the complaint, but found the Commander of the castle was bound to grant access to messengers at arms, or other officers of the law, bearing the King's letters, in order to their executing the same.

*Act. Macdowal & R. Craigie. Alt. W. Grant. Clerk, Pringle.*

*Fol. Dic. v. 4. p. 1. D. Falconer, v. 2. No 218. p. 262.*