

Palaces where Kings Reside are Sanctuaries in all Nations.
 But Royal Palaces should not be Sanctuaries if the princes be not ducal
 or royal, unless that privilege be granted to them by Express Char-
 ter or prescription. M. Henric observ. on act. 36 Par. 5. L. 3.
 The Kings Mint house pretends also to be a Sanctuary without
 M. Henric observ. on d. act. 36. It is said, that the Mint has only a
 Privilege to protect debtors under Captions taking Shelter there, till
 24 hours after the Warden is required to surrender the Refugee.
 See Quere.

A Messenger having apprehended a person with caption to
 a just debt within the Castle of Edinburgh, the Deputy Govern-
 our hindered the prisoner to be carried off, by causing that the
 gates till he was dismissed. There upon the Lord of Session
 Instance the Caption was obtained, applied to the Lords of Session
 by a petition complaining of such a breach, and craving that
 the Deputy Governour might be ordained to deliver the prisoner
 into the hands of the Messenger without the Castle Gates. It was
 answered of the Castle of Edinburgh being one of the houses
 in which our Kings dwell in former times did have the privilege
 of an Abbey, and was exempted from the Execution of Legall
 Diligence, as the houses of all Sovereign princes in Europe have
 by the Law of Nations, which communicates the sacredness and
 Inviolableness of their persons to their palaces, Sil. C. de Pri-
 vilegiis Domus Augustae Sil. C. de Palatijs & Dominicis
 Dominicis. perz. prelect. in Cod. de palatijs l. c. n. 3. That in the
 land the Kings houses, as the Abbey of Holy Rood house, the Mint
 house, the lands called the Kings stables &c. Enjoyed the privilege
 of Sanctuary, appears from our old Law Stat. Wilhelmi Cap. 1.
 n. 2. Where the Deformer of the Kings officer could be punished no
 further than the Kings Castle, which was the last Resort.
 Nor can any Instance be given, where ever a Caption was taken
 up to be put to Execution within the Castle of Edinburgh, tho
 this being a Complaint containing a Conclusion of Declarator
 it is competent only by an ordinary Action, where the offic-

Officers of State as the proper Contradictors must be brought in
 to field. Nor can the Deputy Governour be quarrelled for what he did,
 tho it should be found that the Castle is not a Sanctuary: Seeing he had
 London in Redubia to assert the Privilege of a Royal Castle commi-
 tted to his Care, and not to suffer it to be searched upon, without
 special order from the Sovereign, or a Declarator finding that the
 Castle had been priviledged. It was likewise for the sake of
 of however great the need is thereof in all Countries to the presence
 of the business power, who by proper officers will in doubt take
 care, that the place where he resides shall not give protection to those
 who contemn the Law: Yet where that which was once the Kings
 Residence is converted to other Uses, as now the Castle of Edinburgh
 is to a Garrison, it can no longer enjoy that privilege. The Statute
 of King Williams and the Citation out of Scotland are to be under-
 stood only of a Palace where the Sovereign actually resides. The
 Defendant other Citations out of the Civil Law support plainly
 that the prince's palace could be no Sanctuary to the Judge in
 these words: Consecrat. Ecc. i. e. Inlyta Palatia ab omni
 Privatorem Usu et Communi habitacione Excipiuntur. l. tit.
 l. de palatijs et Dominicis Dominicis. The Civil Law do therein
 record give the Right of Sanctuary to Churches Sil. C. de hie qui
 Eccles. Conjug. and to the Statute of Emperours, Sil. C. de hie qui
 ad. Statuas Conjug. But never to the Palaces of princes. Nor
 is it to be thought, that the Emperours who Expressly forbid pri-
 vate persons to live within the Palaces, would call upon their
 Princes as a kennel to receive and Shelter flagitious persons
 and Contemners of their Laws. No Argument can be drawn
 from the palace of Holy Rood house being a Sanctuary:
 since it hath not that privilege as the Kings house, outpaving
 had it as a Religious house before the Reformation, the privi-
 ledge was continued to it by an Express Charter. It is plain
 to say, that no Instance can be given of any that was ever
 forced out of the Castle of Edinburgh, by a Caption: Since
 Legal Diligence must have its course, unless where Law
 or Contrary practice hath Indulged an Immunity. 2. The
 Complainer is not Insisting on a Conclusion of Declarator
 but only seeking Redress of an Unwarrantable Stop made
 to Legal Diligence in Contempt of the Authority of the
 Sovereign, and the Lords of Session, which may be applied
 for in a Summary way. And if any Declarator were necessary