Necessary, it belongs to the Defender to prove it, & who Justifyes this
practice by a pretended priviledge of Sanctuary, which he must prov
Again, the Deputy Governour was highly Censurable for hindering
the Execution of the Sovereign's Letters under pretence of a privilege
not founded either in law or Custome. The Lords found the Mar
of Tenbury's it no sanctuary to hinder Execution of the King's
Letters and ordained the Deputy Governour to Deliver up the person
against whom the faption was procured to the Complainer's Assist
Lenger: but absolved the Deputy Governour from the Complaint
15 Decemb. 1714. Mr. Ky contra Compleit of Burnbank and Col
Lionel Menard.

Sect. 2.

of Protections.

A protection called in the French law Lettres de Repit are in
the Dutch Brieven van Respijt is a warrand given to one for h
security & his person from being attacked or Arrested for five d
by any officer of Justice During a certain time: such protections have
been sometimes granted under the Kings Hand 5 Decemb. 1672
Wright contra Lawrie, 2 July 1678 Young Supplicant. And two
frequently granted by the Parliament of Scotland, the progress
Councill, Lords of Session, Exchequer or Justiciary. But because
Interest of the Subject was so much Ruined and the Execution
of Law Disappointed throw the Granting of protections from
personal Execution: No protection now a days is allowed to
granted in Parliament to any debtor Except his Creditors are
of fifteen 15 days, and their Names and designations Ld down in
the protection, Act 22 Sess. 7 Parl. K. W. And if the Lords of Privy
Councill or Session or Exchequer or Commissioners of Justiciary
grant protections they are Liable as Cautioners for the Debt upon
which Execution is Stoped thereby; and the laws may be put
in Execution Notwithstanding such protections. But the
Lords of privy councill, might when in being, and the lords of Session
Barons, of Exchequer, or Commissioners of Justiciary may still
grant protections to such as are Cited or Charged to Appear
before them, for some days for the Comming, Necessary stay
and return not exceeding a Moneth in all. The party citing
one that Needs a protection first Making faith, that he is a
Material Witness, and the protection bearing the cause for which
it is granted Act 9 Par. 3 K. 2.

Sect

Sect. 3.

of Cessio Bonorum.

Cessio Bonorum is a Debtors Gift or Assignation & Dispositione of his
whole to his Creditors, all his Estate Real and personal for getting him
selfe Discharged of Imprisonment & Cognitionis Effectus: prosequitur
that he may get out of prison, or avoid being apprehended: by the
Roman Law of the 12 tables Creditors might Cut pieces and divide
the Debtor amongst them: Lex Decemviralis. A. Gell. Noct. Attic. lib. 20. cap. 1.
Which Same Custome Obtained among the Germans, and from them to
Europe was Introduced in the Liberties of Cities, and from them derived to
private persons from whence proceeding Gellius says to be still in Use
in the Kingdome of Arragon & Navarre the Custom of
Tarded Nuncupative & Unwritten Testaments, was Introduced
by the Debtor in Prison or some other person for him, Called
from him Cessio Bonorum: but the ordinance of Parliament
with the Receiving the Cession of Goods otherwise than in the forum
In Scotland before the Judges upon Court with forbearing warning
Diligence, &c. Parl. 1. Chas. I. Act 6. Sess. 6. Parl. 1. Chas. I. Act 6. Sess. 6.

In Scotland the Cession or Goods is made in an Action called
Cessio bonorum, by the Debtor Gifts all his Creditors one
Six days to Accept upon Execution & Charges, and Protest by Precepts and
Heirs and Estate and Craves Letters to be Lo[illegible] Cessionis
Cession, [illegible] is Letters given
out with the Commands of Horning to the Messenger, Dorcator,
for the Defenders, an Inventory and Disposition and his Oath
in favour of the Creditors [illegible] my Lord Justice
Evidents thereof. [illegible] formerly No 60 p. 1053 also give out on the Precepts for Liferate
Incarcerated, that he shall have the Space of a Moneth in Prison
Act of Sederunt 29 July 1735.
Act of Sederunt 6 July 1688. But that is now to be Discussed with
all the Calling of this Cause in the Outer House, the ordinary
Doth nothing but Discuss any Dilators that happen to be objected
and Make great Avisandum with it to the Lords in presence.
When it is Called there, the pursuers ad vocale Craves that his
Clients oath may be Lade upon his Effects produced. The Creditors

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