

to apprehend without any warrant and detained prisoner
 till a Warrant of Commitment were procured, and a Magistrate
 charged to Concur in Apprehending a Rebel or outlaw
 could not be obliged to do it without seeing the Messengers
 Warrant. Which plea was Reported, in Respect a fight
 of the Messengers warrant was not Required. And tho
 it had been Required, he was not bound to put in the
 prisoners hands, lest he might Destroy or wither away it,
 but only to show it to some Disinterested person present
 for the purpose Required to Concur and assist in the
 Execution of a Caption, are not obliged to that part of
 duty till they see the Messengers Warrant; Yet one against
 whom a Caption is found, who is not Required to do any
 thing, must give passive obedience; and ought to be appre-
 hended whether he hinder or no. Besides, letters of Cap-
 tion are not like summons wherof a Copy ought to be
 given to the person against whom found, ~~lest he~~
 that he may appear instructed to Answer. But are only
 a presumption in order to the Messenger to take the party
 and the Messenger is Answerable if he do it without a
 warrant in Feb. 1672 Gordon of Ormsay 6 August 1722 James
 Campbell of Lonsdale. The Violent Approving and hindering
 ring a Messenger having his Blazon Displayed in the
 Execution of Letters of paining, or the bringing and part thereof
 of, was Justified Relevant to infer the pains of Deference
 ment, albeit the Messenger did not show his Warrant to
 those who hindered him; in Respect it was not Gathered
 and Required 3 January 1726 James Hamilton and others
 Nay it is the duty of all good Subjects not to Approve
 by what may be lawful, tho they see no written Warrant
 For as the King may Commit some persons to prison
 without a written Warrant Act 6th of King James VI. and
 the Ministers retain their officers to arrest ships
 and take their from the sea without any written
 the had to of such Execution Requiring it to be done

done in Henry's Crim. part 1. Feb. 26. 84.

It was found a Relevant Defense against Deference in
 Executing a Caption, that the Defendant had suspended 21 fines
 1680 Margaret Hills. But such a Defense is of no avail if
 the suspension was not Intimated to the party or Messenger
 to put them in Malice 6th March 1682 the said Symon and
 others or was Rendered Ineffectual by a protestation 21 June
 1680 Margaret Hills. It was found Relevant to go for
 the Crime of Deference, that the Deforcer in a Caption
 kindred and a wife a Messenger in the Execution thereof:
 Albeit he the Deforcer had obtained a writ upon a Bill of
 suspension wherof the Legal Endurance, viz. a fortnight,
 was not then Expired, and the Bill with the writ was in
 his pocket: In Respect such writs bear a quality, that the
 Obligor may in the mean time see and Answer, and the
 writ would have been Effectual for a fortnight had no
 Answer been given in; yet the writ being Answered
 the Bill, the Lord Ordinary upon finding the Answer
 Relevant took of the writ within the fortnight by a De-
 claration on the Answer, which the obtaining of the
 writ did not hinder by getting himself out of town with
 the Bill on which it was given; and the writ to King of the
 writ was Intimated to him at the ~~execution~~
 20 December 1708 Captain Patrick Gordon of Gosh
 aining Again. This Defense was Justified again by that
 Deference in Executing a Caption for Civil debts, that
 a written by the Defendant, personal Debts, were to be paid by
 the Debtor was Intimated to the Messenger and his Assist-
 ants at the time of the pretended Deference, and
 to be proved by the witnesses in the Justification
 of Intimation. Albeit it was pleaded for the Justification
 that the supposed Deference was Null, it being qualified with
 an Express provision, that the creditor should not be
 Molested in Certain lands, wherof he was Molested:
 as a protection qualified with a ~~condition~~
 of payment of annual rent may be
 Molested, if the annual rent is not paid: and a
 privilege or safe conduct granted upon conditions, that
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