

No 40.

A payment was thereupon made of L. 24 to account ; but notwithstanding thereof Pringle put his caption in execution, and James Lesly was imprisoned and booked for the whole debt, without any deduction for the payment. Being liberated on the act of grace, he pursued Pringle in an action of oppression and damages. *Urged* in defence, The pursuer had suffered no injury in being booked for the whole debt, except being obliged to pay a few shillings for liberation money. THE LORDS found the defender had acted irregularly, and therefore found him liable in damages, which they modified to L. 15 Sterling.

Fol. Dic. v. 4. p. 227.

* * * This case is No 37. p. 11749, *voce* PRISONER.

S E C T. VIII.

Negligence in Office.

No 41.

1624. July 20.

BELL *against* BAILIES of DUNSE.

IN an action at the instance of John Bell, against the Bailies of Dunse, for payment of L. 1000, addebted to him by his debtor, because they suffered his debtor to escape out of their ward, wherein he was incarcerated, being apprehended by letters of caption, by a messenger, who presented him to their jailor, which jailor received him from the said messenger, and put him in ward, and kept him therein, by the space of divers days ; this action was not sustained against the Bailies ; for the rebel not being offered to the Bailies, nor commanded by them to be received by the jailor, nor the rebel's warding ever intimated to the Bailie's selves;—the LORDS found, that the Bailies were not obliged ; albeit it was alleged, that they should be answerable for their jailor ; and therefore the action was not sustained against them, but they were assoilzied.

Act. ———.

Alt. *Belsher.*Clerk, *Hay.*

Durie, p. 140.

No 42.

1680. November 17.

OGILVIE *against* RIDDEL.

The clerk of the bills found liable for that part of a sum for

OGILVIE of Logie pursues Walter Riddel, that he expedie a bill of suspension, as substitute clerck to the bills, at the instance of three suspenders, and took but caution for two. The defender *alleged*, That there was nothing of design here, but inadvertance only ; and that the writers who draw the bills of sus-