without assythment, the method prescribed for recovering was not by a civil action, but by trying him for the crime. And on the first point I observed, that the act of grace, which was certainly intended as wide as the *cessio*, yet is expressly limited to civil debts. 19th November Adhered, and refused a bill without answers unanimously. I was in the Outer-House.

No. 10. 1752, Feb. 20. JOHN DRYSDALE, *Supplicant.*

THE petitioner had pursued a *cessio bonorum*, and upon the proof it appeared by his own shewing, that his breaking was owing chiefly to his smuggling, and sundry seizures made of his goods. He produced sundry certificates of his honesty, and prayed to dispense with the dyvours habit, which we are but too apt to do, even contrary to our own act of sederunt 1688, and to the act of Parliament 1696. But as several of us thought the breaking by smuggling could no more be called breaking by misfortune, as the act 1696 expresses it, or by innocent misfortunes, as our act 1688 expresses it, no more than if it were by gaming, and as this smuggling trade is ruinous to the country, we opposed dispensing with the habit; and upon the question it carried by a great majority not to dispense with it. As I think, Lord Dun and Drummore, (who was in the chair) continued against the interlocutor; for some who spoke for dispensing with the habit, in the end voted for the interlocutor.

PRIVILEGE.

No. 1. 1736, Feb. 5. YOUNG, Constable, *against* BRIGADIER MOYL.

THE Lords adhered to the Ordinary's interlocutor, repelling the declinatory defence, that the Officers of State and inhabitants of Calton were not called, but remitted to the Ordinary to hear the petitioner *in causa, me et quibusdam aliis renitentibus*, who thought that this not being a complaint for any particular rout or quartering, but a general declarator of the pursuer's exemption from quartering, the Officers of State ought to be called,—22d July 1785.

The Lords seemed generally of opinion, that the act confining quartering of soldiers to burghs royal or regality, or market towns, included suburbs as well as burghs properly so called, and therefore would include Calton, Potterrow, Portsburgh, &c. But the question was, If Abbeyhill was to be deemed a suburb, at least of Canongate? Some thought that that was in the property of private persons, and not of the burgh, and could not be called suburbs (of this opinion was Dun,) but then none of the above places would have been suburbs till they were purchased of the town of Edinburgh. Others thought it no suburb because of the distance, which the law has not defined, and is arbitrary; and it carried that soldiers could not be quartered in Abbeyhill, *renit.* Royston, Justice-Clerk, *me, et aliis,*—5th February 1736.