And I think, as in other instruments, for astructing the truth thereof, the witnesses inserted ought to be adduced. See *23d November* 1680.

Vol. I. Page 110.

1680. *November* 23.—The Lords found the messenger's execution, bearing, that Mr John Baillie was imprisoned, and the notary's instrument requiring him, and bearing, that he was not there, but at liberty, ought to be proven by the witnesses inserted. Though, in citations, and some other cases, messengers' executions are probative *per se*, without the witnesses adminiculating them.

Some pretended, the messenger and notary ought not to be admitted, because they had behaved themselves as partial, in giving it under their hands already.

The words of the interlocutor were :—Find the pursuer must yet prove that the debtor was incarcerated, or delivered to be incarcerated.

Vol. I. Page 117.

1682. *December* 23.—Archibald Williamson, merchant in Edinburgh, against the Bailies of Hamilton, (*vide* 23d Nov. 1680,) for suffering Bailie of Carphin to escape out of their prison :

It being further ALLEGED, That they could not be liable for his escape, because they were only a burgh of barony, and the prison of the regality of Hamilton was kept elsewhere ; and, by decisions in Dury, *12th Feb.* 1624, *Lanton* against *The Bailies of Dunse*, burghs of baronies were not bound to keep prisoners ; and the 273d Act of Parliament, 1597, does not oblige them to it.

The Lords repelled this, in respect it was offered to be proven that messengers were in use to incarcerate prisoners there, and that the bailies of Hamilton were in use to receive them. *Vol. I. Page* 204.

1682 *and* 1683. PATRICK REID *against* THOMAS CRAWFORD.

1682. *December* 5.—BETWEEN Mr Patrick Reid and Bailie Thomas Crawford ; the Lords having heard Saline report the debate, they sustain the reason of compensation ; and find the debts and the grounds thereof are not to be presumed paid, albeit, by a posterior back-bond, Bailie Crawfurd has not provided for the security of these debts, as he did for the debt of Kincaid of Warriston ; and sustain that article of the libel anent the sum of contained in the fitted account ; and refuse to sustain the five years' salary to Hugh Crawfurd, Thomas's brother, in respect the balance is of free profit, and these salaries use to be weekly allowed ; and repel the discharge of Hunter *adjectus solutioni*, in respect Mr Patrick offers to prove that the same was granted and impetrated since the intenting of Mr Patrick's action. *Vide 3d Jan.* 1683.

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1683. *January* 3.—Mr Patrick Reid having given in a bill against the interlocutor mentioned 5th Dec. 1682 ; the Lords, having considered the bill and answers, adhered to their former interlocutor, anddeclared, if he reclaimed by any new bill, they would modify large expenses against him.

His great importunity provoked them. *Vol. I. Page* 204.