

entitled to a reasonable time to search his office for other writs against the defendant, and that service of the warrant on the Sunday made no difference, see *Ex parte* Eggington, 2 E. & B. 717.

Sundry applications of Statute.—*It has also been held that the **564** Statute extended only to such process as may as well be executed at any other time, and therefore did not apply to a citation from the spiritual Court on a libel against a woman for incontinency, nor to a citation published at the church door, *Alanson v. Brookbank*, 5 Mod. 449; *S. C. Carth.* 504; 2 Salk. 625. So in *Anon. Willes*, 459, the Court ruled that a party might be arrested on Sunday upon an attachment for contempt for a rescue, saying, that a contempt of the Court was a breach of the peace; a rescue was certainly a great breach of the peace. In *Ex parte* Whitchurch, 1 Atk. 55, the Lord Chancellor, after some hesitation at first, determined that a party might be taken on his warrant, upon an order for commitment for contempt in non-performance of an award of the master for payment of money. In that case, the strength of the evidence went to the voluntary surrender of the party to the tipstaff, and a party may voluntarily surrender himself on Sunday. There the order of commitment was, that *the party should stand committed*, and if he had been present when the order was pronounced, he would have been instantly a prisoner. The warrant differed from the warrants of other Courts in not being directed to the sheriff or other ministerial officer, but to the gaoler, the Warden of the Fleet, and the party is considered a prisoner from the time the order is pronounced. The Lord Chancellor referred to a case where, on attachment for non-performance of an award, the party was taken on Sunday, and remarked that process of contempt was in the nature of a breach of the peace, and he refused to discharge the prisoner, for he might bring a *habeas corpus* or an action for false imprisonment. But in *R. v. Myers*, 1 T. R. 265, where a rule was obtained for the discharge of the defendant, who had been convicted in a penalty under the Lottery Act, and sent to the house of correction for want of a sufficient distress, because he was apprehended on Sunday, Buller J. said, that the case was most similar to an action brought for a penalty on the same Statute, and upon an execution in such an action the defendant could not be taken on Sunday; it was to recover a penalty given by Statute, and the effect was equally the same, whether that penalty was recovered by summary proceedings before a justice or in an action. And with regard to the case of an attachment for contempt in not performing an award, mentioned in *Ex parte* Whitchurch, he said that case might formerly have been good law, for then the Court looked only to the contempt, but it had been settled of late years, that an attachment for non-performance of an award was only in the nature of a civil execution. In *McIlleham v. Smith*, 8 T. R. 86, it was determined that a rule *nisi* for an attachment for non-payment of money on the master's *allocatur* could not be served on Sunday, the Statute being as applicable to the case of service of process as to an actual arrest. In *Taylor v. Freeman*, 2 Selw. N. P. 850, where the defendants, as constables, had arrested the plaintiff on a Sunday, by virtue of a warrant from a justice of the peace for getting a bastard child, *Adams B.* held that the plaintiff was entitled to recover in an action for false imprisonment, but see *Bake v. State*, 21 Md. 422, where such pro-