

The Court were unanimously of opinion, That as the imprisonment was founded on an alleged intention to defraud creditors, by flying to another country, it might proceed at any time.

No 10.

The Lord Ordinary, after advising with the Lords, refused the bill.

*Fol. Dic. v. 3. p. 401. Fac. Col. No 246. p. 378.*

1787. February 10. PARK and BROWN against BENNET.

PARK and BROWN made oath before the bailie of the abbey, that their debtor Bennet had retired to the sanctuary, merely to have a better opportunity of flying the kingdom. Bennet refusing to find security for his remaining in Scotland, was committed to the abbey jail, and upon application of the creditors on the ground of that jail being insufficient, warrant was granted by the Lords for removing him to the prison of Canongate.

No 11.

*Fol. Dic. v. 3. p. 401. Fac. Col.*

\* \* \* This case is No. 7. p. 7. *voce* ABBEY of HOLYROODHOUSE.

1789. December 20.

PATRICK LAING against JAMES WATSON and JOHN MOLLISON.

PATRICK LAING insisted in an action of wrongous imprisonment and of damages against James Watson, a creditor of his, and against John Mollison, the Provost of the borough of Brechin, and one of the Justices of the Peace in the county of Forfar.

It appeared that Patrick Laing was in bankrupt circumstances, and had disposed of most of his effects in the borough of Brechin, with a view of removing to another part of the country, though there was no reason to suspect that he meant to quit Scotland; and that James Watson applied to Mr Mollison for a warrant to imprison Laing, stating that he was *in meditatione fugæ*, and intended soon to leave the kingdom, at least that part of it; and with regard to this James Watson made oath.

It farther appeared, that the desire of the petition was granted, without taking the oath of Watson as to the amount of the debt, without any previous examination of Laing, and without any litimation as to the time within which any action was to be commenced against him. Laing was confined to prison for several months; no proper measures however were taken by him, for some time, in order to obtain his release; and it even appeared, that he was inclined to prolong his stay in prison, so as to increase as much as possible his claim of damages. The defenders

No 12.

*A meditatione fugæ warrant was granted without taking the oath of the creditor on the amount of the debt, or examining the debtor. Damages were found due by the Magistrate and the creditor.*