

least, before answer, to ordain Mr Goldie to confess or deny, whether he did not solicit the cautioners to become bound for Hill, and assure them that they would run no material risk, as he was to settle with him weekly.

In answer, this last was solemnly denied, as it was from the beginning; and though a proof had been allowed of what they condescended on, yet this was no part of it,—so was calculated to obtain delay. And, upon the whole, “The Lords adhered; but found no expenses due,” (July 1773.)

CESSIO BONORUM.

1776. August 2. ARMSTRONG against HIS CREDITORS.

It has been doubted, how far a person imprisoned on a warrant for not finding caution *judicio sisti*, in an action for debt, is entitled to a *cessio*. The point first occurred, 9th July 1768, *Adam*, when the Lords refused the *cessio*. This was on a warrant by the Admiral. It occurred again, February 1773, *Robertson*. The Lords ordered memorials; but none were given in. It occurred again, 5th March 1774, in the case of one *Watson*: the Lords, upon advising a memorial from the pursuer, *ex parte*, granted it. But this day, 2d August 1776, the point occurred again, *Armstrong* against *His Creditors*;—*Armstrong* was imprisoned on a warrant of the Sheriff of Dumfries. The Lords ordered memorials; and, upon advising, pronounced this interlocutor:—“The Lords, having advised the memorials in this cause, *hinc inde*, find, That the pursuer, being imprisoned, not in common course of execution, for payment of a civil debt, but on a warrant by the Sheriff of Dumfries for not finding caution *judicio sisti*, is not entitled to the benefit of this process: therefore assoilyie the defenders, and decern.”

Same held to be law,—*Purie* against *His Creditors*, December 1777; same, 20th February 1779, *M'Kechnie* against *His Creditors*.

1776. August 9. M'ARTHUR against HIS CREDITORS.

M'ARTHUR was imprisoned in the tolbooth of Edinburgh, on a warrant from the Sheriff, for not finding caution *judicio sisti*: afterwards, he was arrested in jail by a creditor, for a debt in common form. The Lords found him entitled to the benefit of the *cessio*, except as to personal liberty, until he purged the Sheriff's warrant: they pronounced decret accordingly.

Same, 19th January 1780, *Dominico Corri* against *His Creditors*.