

[But *there* it appeared that the creditors of old Wardrobe did not mean to contract with young Wardrobe, and only changed the shape of their securities.]

On the 22d July 1785, "The Lords repelled the objection to Brown's ground of debt."

Act. A. Abercrombie. *Alt.* W. Honeyman. *Reporter*, Braxfield.
Diss. Swinton, Hailes, Ellick, President.

N. B.—There seems more benevolence than law in this interlocutor. It considers the bankrupt as a neutral and a credible person.

1785. *August 2.* JAMES SPEDDING, ESQ. *against* HODGSON and DONALDSON and COMPANY.

BANKRUPT.

Proof of Absconding.

[*Faculty Collection, IX. 356 ; Dictionary, 1113.*]

ESK GROVE. *Resting owing*, in the narrative of a bond, presumes that there is an old debt ; but still the creditor may disprove this, by showing that it was not an old debt.

BRAXFIELD. If a search were of itself evidence of a bankruptcy, I should be very strict in interpreting the evidence of such search.

PRESIDENT. Search is a *presumptio juris*, but still the evidence from it may be redargued.

HAILES. The case of *Romanes of Lauder* is nothing to the purpose ; there a *search and not found* was returned, but it came out on proof, that Romanes was an idle man who lived alone,—that he had made an appointment with some idle companions to track hares in the snow,—that, on setting out for this expedition, he locked his door, and that, while he was thus absent, the messenger searched for him and could not find him. A search made, when the cause of absence was proved, had no weight with the Court. Here it is not said why the debtor was absent from home.

GARDENSTON. The petitioner admits that it would have been enough, supposing *repeated* searches. On what principle is it that *one* search is not enough ?

On the 2d August 1785, "The Lords found that the bankruptcy is sufficiently proved by the execution and the other circumstances of this case ; but, in respect that improbation is proponed, they allowed a condescendence to be given in, the petitioner always paying the expenses incurred before the proponing of improbation ;" varying the interlocutor of Lord Gardenston, Ordinary.

For Spedding, G. Ferguson. *Alt.* A. Elphinston.