

Accordingly, the LORDS " Found Jonathan Ormiston and James Lorain liable to the pursuer in damages, conjunctly and severally. But, before answer, as to allowing the pursuer his oath *in litem*, ordained the pursuer to give in a condescence of the persons from whom he bought the goods, that were sequestered by order of the Sheriff of Berwick, and what the prices of said goods were when bought."

No 33.

Fol. Dic. v. 4. p. 232. Kilkerran, (REPARATION.) No 6. p. 489.

1789. December 20. LAING against WATSON.

No 34.

A JUDGE, as well as a party, found liable in damages for granting a *meditatione fugæ* warrant on a groundless application.

Fol. Dic. v. 2. p. 232. Fac. Col.

. This case is No 12. p. 8555. *voce* MEDITATIO FUGÆ.

S E C T. VII.

Wrongous Imprisonment.—Deforcement.—Oppression and Damages.

November 22 1743, and November 2 1744.

BELL against MAXWEL Bailie of Wigton and Others.

THE TOWN of Wigton pretending a right of exacting a toll of twopence per head upon all cattle carried out of the shire; and the tacksman of the toll being informed that Alexander Bell, servant to Fullarton of Fullarton, had bought some cows for his master's use, and carried them away by the Carrick-road, brought Bell, who happened, after some distance of time, to be occasionally at Wigton, summarily before James Maxwell, Bailie, when the customer alleged, he had carried a parcel of cows out of the shire, without paying the toll due to the town, and insisted that he ought to be ordained to depone upon the number. The Bailie accordingly ordained him to depone; and, upon his refusal, committed him to prison. After he had been some days in prison, a process was brought against him, wherein being held as confessed on the number contained in the libel, he was decerned in twopence per head.

Of this decree he obtained suspension, and also pursued a process of wrongous imprisonment against the Bailie and customer, &c. In discussing which processes, it being averred for Bell, that the town had never been in use to

No 35.

A person found entitled to damages, who, without any decree being taken against him, was summarily imprisoned for refusing to depone to the number of cattle carried out of the country, without paying the customary dues.