

No 12. make up the loss; which, however, on account of the pursuer's omitting to take the proper measures for obtaining his enlargement, the Court resolved to bring within as narrow limits as possible.

THE LORDS found "the defenders liable to the pursuer in damages and expenses."

A petition was afterwards preferred for the heir of Mr Mollison, he having died, insisting that he should be assoilzied; or at least, that he should be found liable *subsidiarie* only, after the pursuer had endeavoured to recover his damages from Watson, as the person chiefly guilty. THE LORDS appointed the petition to be answered on the last point. But after advising these papers the former judgment was affirmed. See REPARATION.

Reporter, *Lord Eskgrove.* Act. *Dean of Faculty, W. Robertson.* Alt, *Wight, Corbet.*
Clerk, *Sinclair.*

Fol. Dic. v. 3. p. 401. Fac. Col. No 99. p. 179.

* * * This case was appealed:

THE HOUSE of LORDS, 8th April 1791, 'ORDERED that the appeal be dismissed, and the interlocutors complained of affirmed.'

1793. March 9. DAVID WIGHT and Others *against* PETER NIBLIE.

No 13.
Application for a warrant *meditatione fugæ* against a person who has retired to the Abbey, must be made in the first instance to the bailie of that sanctuary.

PETER NIBLIE having retired to the Abbey, a petition was presented by some of his creditors, praying to have him deprived of the benefit of the sanctuary, on account of some alleged acts of fraud, or at least to have him ordained to find caution *judicio sisti*, in the actions already brought, or to be brought against him at their instance, as they were apprehensive that he meant to escape.

THE COURT were of opinion, that the circumstances of the case did not warrant his being deprived of the benefit of the sanctuary; and that any application against him as *in meditatione fugæ*, fell to be made in the first instance to the Bailie of the Abbey, the Judge Ordinary, who, if he saw cause for requiring caution, might, on Niblie's failing to find it, confine him in the prison of the Abbey, as was done in the case of Park against Bennet, No. 7. p. 7.

THE LORDS, as to this point, refused the petition.

For the Petitioners, *Geo. Fergusson.*

Clerk, *Sinclair.*

D. D.

Fol. Dic. v. 3. p. 401. Fac. Col. No 48. p. 101.