

No 13. oath whatever was requisite ; and, unless a more effectual remedy be granted, it is apparent, that the caution *judicio sisti* will be of no earthly significancy.

Observed from the Bench : There is neither justice nor necessity for ordering caution *judicatum solvi*. No justice, because such order might bear extremely hard upon foreigners, who, though they may find persons inclined from humanity to become cautioners *judicio sisti*, will not always have it in their power to procure caution *judicatum solvi*. No necessity, because, when decret is pronounced, the pursuer may apply to the judge-ordinary, and upon making oath that the defender is *in meditatione fugæ*, he will then obtain a warrant to apprehend her.

' THE LORDS found, That the defender is not, *in hoc statu* of the process, obliged to find caution *judicatum solvi* ; reserving to the pursuer, in the future steps of process, to apply, that such caution may be found, as she shall be advised.' See FOREIGN. See FORUM COMPETENS. See MEDITATIO FUGÆ.

Reporter, Lord Coalston. Act. Lockhart. Alt. Montgomery & Ferguson. Clerk, Tail.
A. Wight. Fol. Dic. v. 3. p. 113. Fac. Col. No 112. p. 259.

1765. December 7. BRITISH LINEN Co. against CLERKSON.

No 14.

UPON an oath *de meditatione fugæ*, the Admiral granted warrant for incarcerating a person said to be debtor in a debt merely mercantile, till he should find caution *judicio sisti et judicatum solvi*.

A suspension having been offered, the Lords passed the bill as to the caution *judicatum solvi* ; but refused it as to the caution *judicio sisti*. See MEDITATIO FUGÆ.

Reporter, Ellick. For the Chargers, Lockhart. Alt. ———.
G. Ferguson. Fac. Col. No 22. p. 238.

1774. December 15. JAMES TELFER against JAMES MUIR, and Others.

No 15.
A debtor who had found caution *judicio sisti*, sisted himself in Court by his counsel. Decree went against him, and he afterwards absconded. The cautioner found to be free, as

TELFER having present occasion for the advance of some money, in the month of February 1773, wrote upon that head to John Muir, then writer in Edinburgh ; and, in answer to his letter, sent him his acceptance for L. 20 Sterling, relying upon his promise to remit him the money immediately.

Telfer finding himself tricked by Muir, who had indorsed the bill to a connection of his own for value, of which Telfer was advised when the bill fell due, and threatened with diligence ; and being apprehensive that Muir was about to withdraw himself from this country, to which he made oath accordingly, a warrant was granted, upon his application, for apprehending and bringing Muir before the Sheriff of the county ; and, upon advising a declaration emitted by him,