of Stonefield, it came to be disputed what the boundaries of this fishing were,—whether they were the mouth of the river, where it emptied itself into the sea, or where the tide flowed, and the salt water met the fresh? As the proper contradictor in this process appeared to be the Town of Dumbarton, the Lord Monboddo, Ordinary, appointed Sir James to call the Town of Dumbarton into the process; to which the Lords adhered, (25th June 1777:) notwithstanding of the doctrine in Lord Kaimes's celebrated Treatise on the *Jus Tertii*, in which it is laid down, that, unless I can found upon a right in my own favours, I cannot found upon the interest of a third party as preferable to that of my antagonist. For, in this case, Stonefield founded on no right in his own favour, but only contended, that Sir James having no right to the fishing below where the tide flowed, it was not he, but the Town of Dumbarton, who had right to quarrel him.

FOREIGNER.

1775. *December* 6. CARMICHAEL *against* SCOTT.

CARMICHAEL, an Englishman, being debtor to Scot, a Scotchman *ratione originis*, but a merchant at Newcastle in England, *animo remanendi*, having come to Scotland, as he alleged partly for recovery of health, and partly in the way of business,—Scott suspected that he had left England in order to defraud his creditors. He emitted an oath accordingly,—which he transmitted to his agent at Edinburgh; and he finding Carmichael there, and not satisfied with the account he gave of himself, emitted an oath of credulity in common form,—that he believed him to be *in meditatione fugæ*;—whereupon the Sheriff granted warrant to apprehend and incarcerate him, until he should find caution *de judicio sisti*. Upon this warrant Carmichael was apprehended, and incarcerated accordingly. He presented a bill of suspension on juratory caution, which the Lords passed without caution or consignation. They thought, that, in this case, there was no proper forum constituted against Carmichael: Scot's being a Scotchman or not, made no difference. But to allow a stranger occasionally in Scotland, *sine animo remanendi*, to be summarily arrested for a civil debt, without evidence of fraud, other than the oath of the creditor, would be attended with consequences very prejudicial to commerce: *actor sequitur forum rei* is a rule proper to be observed in every case. In this case, the debt by Carmichael to Scott was acknowledged.