

SUSPENSION.

1776.

OSBURN *against* ARBUCKLE.

ARBUCKLE charged Osburn for payment of a bill : Osburn suspended, and the suspension was expedé, but afterwards fell asleep. Arbuckle charged him of new : Osburn suspended of new. 15th July 1775, a sist was given on the bill ; 19th July, it was intimated to the messenger, who was doer for Arbuckle, and who had the diligence. The instrument of intimation was returned into the Bill-chamber ; and, 3d August 1775, after lying the proper time, and no answers being given in, the bill was past.

Previous to this, however, Arbuckle having taken the diligence out of the hands of his former messenger, who, in consequence of the intimation made him, refused to proceed, put the same into the hands of a messenger brought from Glasgow ; and this messenger, on the 31st July 1775, poided Osburn's effects in a rigorous manner. The parties lived near Ayr.

Osburn complained, by summary petition, setting forth oppression and contempt of authority.

The Lords, 7th February 1776, pronounced this interlocutor :—“ Having advised the complaint, with the answers, replies and duplies, find the respondent, James Arbuckle, guilty of a high contempt of the authority of this Court, and also guilty of oppression to the complainer ; the Lords therefore find him liable to the complainer in damages, which they modify to £5 sterling, and in full costs of suit, &c. Further, in respect of the high contempt of authority, as aforesaid, and for the terror of others to commit the like in time coming, the Lords grant warrant to, and ordain all sheriffs, magistrates, macers, and messengers, and other officers of the law, to apprehend the person of the said James Arbuckle, and, being so apprehended, to transmit him in safe custody, from the place where he shall be so apprehended, to the tolbooth of Ayr, and therein to incarcerate him for the space of 14 days from and after the date of incarceration, and then to be set at liberty ; and grant warrant to the Magistrates of Ayr, and keepers of their tolbooth, to receive and detain him accordingly.

But, upon a reclaiming petition, and of consent of the complainer, the Lords recalled that part of their interlocutor sentencing to imprisonment, and, instead thereof, fined him in L.5 sterling, for the use of the poor, to be paid immediately.

This complaint went not only upon the sist on the second bill of suspension, duly intimated, but upon the first suspension which had even been expedé. The second suspension truly was superfluous.