

till 9th November, and after hearing at the Bar, we found the claim on this bill could not be sustained. The only thing that satisfied me was the act 4^{to} Geo. I. telling the meaning of the act 1^{mo} Geo. I. the enquiry act, which is in the same words with the last vesting act. *Renit. Dun.*

No. 10. 1751, Jan. 8. DRUMMOND'S CLAIM ON THE ESTATE OF STRATHALLAN.

It was objected against a claim for Andrew Drummond, that it was not signed by himself but by John Gordon as his factor by a factory 1737, long before the forfeiture or vesting act, and only a general factory. Answered, That the vesting act allows claims to be signed by attornies or factors, and that very necessary, because many claimants might be in foreign parts, in the East or West Indies, and the factory is very ample to sue and even uplift in his own name, but for the granter's behoof, all debts and sums of money then due or that should be due to him. Minto reported this objection for advice, and the Lords unanimously repelled the objection.

No. 11. 1753, Dec. 6. HOY, (HOGG) *against* KENNEDY and M'LEAN.

MESSRS KENNEDY and M'LEAN in Glasgow, commissioned Hogg, merchant in Rotterdam, to send them to Glasgow merchant goods, viz. madder and tartar. He shipped the goods on board of a ship for Leith 12th August 1751, and got the skipper's bill of lading, two butts and one cask, not specifying the contents. The ship sailed 25th August and was cast away 4th September, and Hogg acquainted them of his sending the goods no earlier than 14th September, and it arrived at Glasgow only a few days before the news of the loss of the ship, and did not bring with it the bill of lading, or invoice, or ship's name, but only the total sum due, and the skipper's name. They sued him for L.535 the price, and produced bill of lading and copy of invoice. They obliged him to prove that the goods were contained in these casks. But their chief defence was, that he had not advised them on shipping the goods, or before the ship sailed, of his obeying their commission, and neither sent the bill of lading nor the ship's name, so as they might insure, which they said was necessary by the custom in commissions from Glasgow to Holland. The pursuer again denied both the custom of merchants, and the custom in commissions from Glasgow;—that when Glasgow merchants intend to insure, they order the factor to do it either in Holland or England, and the letter of advice, bills of lading, and invoice, are commonly sent with the ship, which often arrives before any advice could come by post. Lord Minto, Ordinary, repelled the defence, and found expenses due;—and on a reclaiming bill without answers we adhered as to both,—and, as to expenses, thought where a factor duly obeyed his commission, he was entitled to all his expenses, whether the employers were litigious or not.

FACULTY.

No. 1. 1737, June 21. MARION TURNBULL *against* MARGARET OGILVIE.

THE Lords altered the Ordinary's interlocutor, and found the granting a personal bond in exercise of the reserved faculty could only have a personal effect, but not really