

No 273. follow the rules-it has prescribed. To authorise the smallest deviation, would be attended with the worst consequences.

It was separately *urged* for the complainer, That at least a share of the funds corresponding to his debt should have been set aside, agreeably to sect. 32. of the statute, till the issue of the litigation was known. But to this it was *answered*, That the above-mentioned clause did not relate to claims which had been irregularly made, but to those only, the justice of which required the discussion of courts of law.

'THE LORDS dismissed the complaint, and found expences due.' See SEQUESTRATION.

A&G. Cullen.

Alt. M^r Cormick.

Clerk, Sinclair.

Fac. Col. No 330. p. 506.

Craigie.

No 274.
12th Geo.
III. c. 72.

1787. March 8. WILLIAM MACILWRAITH *against* ROBERT RAMSAY.

A FACTOR appointed by the Court, in virtue of the act 12th Geo. III. c. 72. found liable in the penalties of malversation, after the statute itself had expired. See The particulars of the case, *voce* JURISDICTION. See FACTOR.

Fac. Col. No 329. p. 504.

1788. January 16.

HUGH FINLAY *against* BERTRAM, GARDNER, and COMPANY.

No 275.
23d Geo. III.
c. 18.—This
act provides,
that a party
desirous to be
conjoined in
a pinding,
must *summon*
the pinder
within a li-
mited time.
The appear-
ing in an ac-
tion, and pro-
ducing an in-
terest, found
equivalent.

FINLAY having pinded the effects of his debtor, who became bankrupt, in terms of the statute of 1696; and another creditor, in virtue of the late bankrupt statute, having raised an action against the pinder, Bertram, Gardner, and Company appeared in that action, producing their interest, and craving to be conjoined. —To this it was *objected* by Finlay, That the permission of the statute to other creditors to claim their proportions of the goods pinded, is qualified by this express *proviso*, 'that they make their claim by summoning the pinder;' whereas, here was no summons, but merely an appearance in an action already instituted.

The Court were unanimously of opinion, that the judicial demand made by the production of the interest in question, was a stronger step, in bar of the limitation 'of four months,' than the mere summoning of the pinder, which, as the simplest mode, was allowed for the convenience of the creditors claiming; and it was observed, that the same interpretation had been given to the act of federunt of 1662, by holding production of an *interest* as equivalent to *citation*, the expression which is employed in that act.