

1776. *December 17.* MR WALKER and Other CREDITORS of James Pearson, Petitioners, *against* SAMUEL DONALDSON, Factor on the Sequestrated Estate of said James Pearson.

A FACTOR upon a sequestrated estate, in terms of the late Act of Parliament, having failed to give in his accounts in terms of the Act, the Creditors, 27th July 1776, gave in a petition, craving that he ought to be ordained to give in his accounts betwixt and a day certain; and, failing thereof, that his bond of cautionry ought to be registered for execution, and a charge given in consequence thereof. The Lords ordered the petition to be served upon the factor, as in Court:—he gave in answers accordingly. They were unsatisfactory. At advising, the Lords pronounced an interlocutor, “ordaining the factor to produce his accounts in the Clerk’s hands, betwixt and Friday next; and, in case he shall fail so to do, grant warrant to the Clerks of Session, their deputies or substitutes, or keepers of their records, in whose hands the said bond of cautionry lies, to put the same into the register for execution, to the end that the petitioners, or all concerned, may have extracts thereof for execution; and ordain execution to proceed thereon accordingly, at their instance, in common form.”

This day, 3d August 1776, the cause was again moved. The accounts were given in, by which a balance was acknowledged of £83, besides other articles to which the Creditors objected. The Lords pronounced this interlocutor:—“The Lords having resumed consideration of this petition, and having also considered the accounts produced, by which it appears that an acknowledged balance of £83 sterling, or thereby, is due to the Creditors; therefore, in terms of their former interlocutor, ordain the bond of cautionry to be registered, and execution upon the extract awarded, at the petitioner’s instance, for payment of said L.83; and decern. But as to any controverted articles in said account, remit to next week’s Ordinary on the Bills to hear parties’ procurators thereon, and to do as he shall see cause.”

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A petition of a like kind, this day, 5th December 1776, was only ordered to be intimated,—Petitioner *Beveridge*. When answers came in, they set forth that he was not factor, but trustee. But the Lords observing that no Act of Court had been pronounced in terms of the Act, they considered him still as factor, and ordered him to give in his accounts against a day certain, and found him liable in the expense of the application.

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1776. *August 3.* The CREDITORS of WILLIAM DONALD, Merchant in AYR, *against* The EARL of CASSILS.

WILLIAM Donald, merchant in Ayr, having become bankrupt, his Creditors

brought a sale of his estate on the Acts 1681 and 1690, and afterwards petitioned for sequestration. The Earl of Cassils, as an heritable Creditor by heritable bond, infestment, adjudication, and charter and infestment, and in possession of the lands of Bardanock, and a tenement of Ayr, opposed the sequestration *quoad* these subjects. The Lords granted the sequestration, exclusive of these subjects, which they refused to sequesterate.

By the late Bankrupt Statute, it is declared, That although the bankrupt should die after sequestration, that it continues, and that the factor is entitled to recover the debtor's estate in the same way as if he had been alive. The case occurred, *20th June 1775, Creditors of Andrew Hunter, shoemaker in Glasgow, Petitioners.* The Lords proceeded to name a factor in common form; but, with respect to these clauses in the interlocutor, ordaining the bankrupt to denude and grant a disposition, &c., these were left out, in respect of his decease, and a general clause thrown in, granting warrant to, and ordaining the factor to do every thing proper and necessary for discovering and taking possession of the personal estate and effects of the bankrupt for behoof of the Creditors.

1772. *July 25.*            DAVID LOCH'S Sequestration.

IN the sequestration of David Loch's effects, at the instance of his Creditors, in terms of the late statute, the Petitioner, Robert Ferrier, produced a horning and caption, and bill and protest, whereon they proceeded,—and an oath of verity upon his debt,—together with a certificate from the Clerk of the Abbey of Holyrood-house, certifying that Mr Loch was, upon the           , admitted to the benefit and privilege of the Sanctuary. The Lords granted warrant to cite Mr Loch, and afterwards sequestered in common form.

1772. *December* .    WOOD *against* The MAGISTRATES OF GLASGOW.

A SEQUESTRATION on the late Act of Parliament, obtained on the application of the debtor himself, is no bar to his obtaining his liberation from prison the Act of Grace.

1772. *August 4.*            SAMUEL COLE, &c.

IN May 1772, Samuel Cole of Covent-Garden, mercer, sent down to Scotland a parcel of silks, in value about L.3000. Soon after his brother came down, as factor, to sell these goods, which were lodged in a ware-room in Canongate, where he obtained a license to trade. These silks were soon after arrested by certain English creditors of Samuel Cole; whereupon he wrote to