

1750. *January 3.* *ANDERSON against ORMISTON and LORRAIN.*

No 38.

A CREDITOR who had given orders to his agent at a distance, to do diligence for recovery of his debt, the agent having made application to the Sheriff, setting forth, that he was credibly informed the debtor was embezzling his goods, and preparing to fly the country, who thereupon, without farther inquiry, granted warrant to sequestrate and roup the goods; both the creditor and his agent were found liable to the debtor in damages and expenses, although it was urged for the creditor, that he trusted to his agent taking no steps but what were legal; and for the agent, that he had done nothing but *auctore Pratore.*

Fol. Dic. v. 4. p. 226. Kilkerran.

*** This case is No 33. p. 13949.

1756. *January 27.* *MURRAY against MANSFIELD.*

No 39.

MANSFIELD having commenced a pointing of the shop-goods of his debtor Jackson, Morton, another creditor, offered to point in the same shop, and being prevented by Mansfield, on the pretext that he could not come in upon a pointing already inchoated, Morton's messenger retired, after taking protest, 'That he meant only to point such part of the debtor's goods as Mansfield had not pointed, and only to conjoin with him in pointing the common debtor's effects; and therefore protesting, that as he was stopped in his lawful procedure, Mansfield should be liable for the debt due to Morton.' It was agreed, that this was a deforcement sufficient to infer damages, but it was doubted to what extent; Mansfield's debt was five times greater than Morton's; the quantity and value of the goods was distinctly ascertained by Mansfield's execution of pointing; and the doubt was, whether Morton should draw from him the one half, or only a rateable proportion according to the extent of their respective debts. THE LORDS found Mansfield liable for a rateable proportion only, deducting the expense of pointing.

Fol. Dic. v. 4. p. 232. Sel. Dec.

*** This case is No 52. p. 10537, *voce* POINTING.

1761. *November 18.* *LESLEY against PRINGLE.*

No 40.

DAVID and James Lesly accepted a bill for L. 39 to Pringle; and the latter obtained decret for the debt, on which he raised horning and caption. A