

1712. *February 22.* CREDITORS of COLQUHOUN and WARDROP, Supplicants.

No 12.

The Court will not, on account of any circumstances of conveniency, allow a sale to proceed before an inferior court.

THE estates of Colquhoun of Kenmure, and Wardrop of Dalmarnock, being bankrupt, and the ranking and sale advanced, the Creditors gave in a bill to the Lords, representing that the lands lie within two miles of Glasgow, and the Creditors concerned live all in the neighbourhood, and that it will be most convenient for all bidders that the roup be at Glasgow, before the Bailie of the regality, or any other they shall appoint to oversee it, the articles of roup being adjusted here; therefore begging the Lords would appoint it to be at Glasgow, for the ease of all parties concerned. THE LORDS considered this was the first time ever such a thing was demanded, since the act introducing the sale of bankrupts lands in 1691; and that they have been all uniformly before one of their own number, and still at Edinburgh; and whatever semblance of ease this had, at the first view, yet the yielding such a novelty might draw inconveniences with it; for by the same rule they might be craved to be held in Orkney or Inverness; and though they doubted not but on specialities they had power to appoint them at any place, and before any gentleman they should commissionate for judge, it was never yet done; and Edinburgh being the *communis patria* for all Scotsmen, the purchase was little worth if it would not bear the offerer's expenses to come to Edinburgh; and for their small conveniency such a novelty was not to be introduced. It is true apprisings of old were led at the head burgh of the shire where the lands lay, or at Edinburgh by a special dispensation; but these thirty years past all sales of bankrupt lands have always been at Edinburgh, and before one of their own number; and therefore the LORDS refused the desire of these Creditors bill.

*Fol. Dic. v. 2. p. 311. Fountainhall, v. 2. p. 729.*

1744. *February.*

*A. against B.*

No 13.

IN a process of sale, it was found, that even real creditors, when not in possession, were sufficiently called by the edictal citation.

*Fol. Dic. v. 4. p. 208. Kilkerran, (RANKING and SALE.) No 2. p. 469.*

No 14.

A point determined in a ranking cannot be altered in making the scheme of division.

1746. *June 24.*

GARDEN of Troup *against* The other CREDITORS on the Estate of BIRKHILL.

IN the ranking of the Creditors on the estate of Birkhill, Garden of Troup, and other adjudgers in the same case with him, were preferred in their order by an interlocutor in these terms, 5th June 1744, "Prefers the adjudgers after-