could not undo what has been done; but when the execution of the decreet is only *dicis causa*, the case is different.

President. I would hold by the forms of the law; but when I see the foundation of the diligence to be rotten, I would examine every thing. If the entry is at two terms, the removing also must be at two terms.

Alva. The moderation used in removings ought not to be considered as less effectual on that account. I should be sorry to see it go out as law in the Highlands of Scotland, that a man cannot be effectually ejected unless his goods are all thrown to the door, and he and his family turned out at the mercy of the seasons. The tenant here is not without a remedy, that of reduction.

Monboddo. I do not think that the ejection can be challenged as not sufficient. Symbolical ejection is that which is universally employed. Here the tenant is *de facto* removed; but there are other objections to the proceedings.

On the 16th January 1777, "the Lords repelled the objections to the competency, and upon the merits sustained the defences against removing." [Unanimously.]

Act. Ilay Campbell. *Alt.* G. Wallace.

Reporter, Alva.

Diss. As to competency, Kaimes, Alva, Hailes.

1777. *January* 17. Simon Fraser *against* John Welsh.

ADJUDICATION.

[*Supplement, V.* 458.]

Braxfield. There is nothing in the objection as to the decreet of constitution. The debtor was called and did not appear: hence the presumption is that he acknowledged the debt. Still the creditors might be heard to object; but the decreet is *ex facie* good. There is no occasion for producing the decreet of constitution in the adjudication.

Kennet. I should incline to think that the creditors are in a more favourable case than the common debtor.

Kaimes. If I take a decreet, just libelling L.50 resting owing, without saying why, the decreet is good, because the libel is understood to refer to the oath or acknowledgment of the debtor. Will it make any difference if the libel should add, that such a sum is owing by a bond? I think not; for still the acknowledgment of the debt is presumed.

President. Mr M'Intosh is cited, and he is expressly held as confessed, on a narrative of all the debts.

Monboddo. If no ground of debt had been libelled, there would have been a difficulty; but there is none in the present case.

On the 17th January 1777, " The Lords repelled the objection.
Act. D. Rae. *Alt.* A. Elphinstone.
Reporter, Justice-Clerk.

1777. *January* 21. ARCHIBALD DOUGLAS and THOMAS FORREST *against* JOHN INGLIS, &c.

RUNRIDGE.

What lands are Runrig.

[*Fac. Coll., VII.* 358 ; *Dict. App. No. I. ; Run-ridge, No.* 2.]

GARDENSTON, The lands are in run-rig situation. The objection against the Act of Parliament taking place is, that the grounds were originally in separate parcels, and that the run-rig has been introduced by means of purchases made from time to time. This is no good reason. If, indeed, the law had once divided, I doubt whether a second division could be made under the statute.

COVINGTON. It is not set furth *when* the lands in question were first alienated from the family of Douglas. I suppose that they were mostly alienated prior to the statute. Supposing that there was an objection against Mr Douglas, as contravening the act of his predecessors, it will be observed that he is not the only pursuer: no objection lies against the other pursuer, Thomas Forrest. The Court has extended the statute far beyond the intention of the legislature. The case of *Tranent* was very like the present case. *There*, there was a burgh of barony, and the same objection now made was proponed and repelled.

KENNET. I had some difficulty in the case of *Tranent. There*, the superior opposed the division; yet it was an equitable judgment. The Court will not give a different judgment where the superior and some of the feuars concur in seeking division. As to the common, if the servant-men were pursuing, there would be a difficulty: the proportion of the common would fall to be set off according to the possession.

KAIMES. The objection urged by the defenders goes too far; for every man who has a share in run-rig lands must have got it from somebody. Besides, Mr Douglas does not pursue as superior, but as proprietor; and with him Forrest, a feuar, concurs.

PRESIDENT. The parcels are so small, that, if they are not run-rig, they are run-dale. But there is no proper summons for dividing the common.

AUCHINLECK. One difficulty occurs here: Suppose that a person feus out land, in order to make a little town, according to the conveniency of the feuars; after all this, he, as the superior, says, " I desire to change every thing that I have formerly planned and executed." Would he not be debarred from it by his own deed ?