

PRESIDENT. Whenever a writing in the form of a bill is employed in things foreign to commerce, it ought not to have any countenance from the law. Were it otherwise, a door would be opened for numberless forgeries.

On the 29th January 1782, "The Lords sustained the objections to the bill;" adhering to the interlocutor of Lord Gardenston.

*Act.* A. Wight. *Alt.* Ilay Campbell.

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1782. *February* 13. CORNELIUS LOYD *against* CREDITORS of PATERSON.

RANKING AND SALE—WARRANTICE.

Whether deduction be given on account of a partial Eviction, when the Subject has been valued, and sold *in cumulo*?

Whether any distinction be made in this matter between a Sale pursued by an Apparent Heir and one at the suit of Creditors?

[*Faculty Collection, IX. 52; Dict. 13,334.*]

BRAXFIELD. There is no warrantice in a judicial sale. But if a person purchases, through error or deceit, he may have a remedy, by giving up the purchase; but he is not entitled to say, I will hold so much of the bargain, and have a deduction on account of the rest.

PRESIDENT. This is a lot sold by a slump bargain. How can we make a distinction between one part of it and another?

On the 13th February 1782, "The Lords decerned against Loyd for payment of the whole lot;" adhering to the interlocutor of Lord Alva.

*Act.* D. Rae. *Alt.* A. Elphinston.

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1782. *February* 8. HUGH MILLIGAN and Co. *against* ALEXANDER BARNHILL.

COMMONTY.

Found that a brewhouse, with the utensils, of which the half had been sold *pro indiviso*, was such a subject, as that the action *de communi dividendo* was applicable to it, No person can be compelled to remain longer *in communione* than he chooses.

[*Fac. Coll. IX. 51; Dict. 2486.*]

MONBODDO. When a subject is indivisible, any proprietor may insist for a roup, both by the civil law and according to the opinion of our lawyers.