

therefore allowed Major Forbes's service to proceed; *renitentibus* Minto, Justice-Clerk, and *maxime* Drummore. 9th August Adhered, to the last part of the interlocutor, the first not being reclaimed against.

* * * As I intend these Notes only for my son's use, I have been the more full in this case, because the reasoning may be of general use to him.

RUNRIDGE.

No. 1. 1748, June 2. DAVIDSON *against* KERR.

THESE two heritors had some lands runrigg, and others possessed as commonty, and both willing to denude, but could not agree in the plan. Kerr pursued a division before the Sheriff, but Davidson offered a bill of advocation, because though by the 23d act 1695, the Sheriff may divide runrigg, yet by the 38th act 1695, the power of dividing commonties is only committed to the Court of Session. Haining refused the advocation; but on a reclaiming bill, we remitted to him to pass it; but resolved when it came in with a new summons of division that Davidson has raised, to remit to the Sheriff as usual to make the division; but to be reported to us.

SALE.

No. 1. 1735, Dec. 12. SMITH *against* BROWN.

A PARCEL of sheep, sold at 100 merks the score, under condition that they should not be sold to one Wellwood, or brought back to Scotland, otherwise the price to be L.100 the score,—the Lords found the paction binding, 7th November 1735.

December 12, The Lords were unanimous in adhering to the interlocutor pronounced 7th November, (and signed the 8th) finding the bargain lawful, but were not unanimous that the sheep sold were for Wellwood's behoof. Several were for examining Scot and Palmer, (*inter quos ego*) but by the majority the interlocutor was adhered to as to that point likewise.

No. 2. 1735, Dec. 12. GOVERNOR OF WATSON'S HOSPITAL *against* THE CREDITORS OF MERCHIESTON.

THE Lords adhered, and ordained the annualrents to be paid in, but remitted to the Ordinary to see the money laid out, that the money may not lie dead.