

No 38. THE LORD ORDINARY found, that " John Dickson is not entitled to deduct, from the partial payments, the expense David Dickson was put to in extracting the act and warrant in his favour."

THE COURT unanimously adhered.

Lord Ordinary, *Craig*. For Dickson, *M. Ross*. Alt. *Hay*. Clerk, *Menzies*.  
*R. D.* *Fol. Dic. v. 4. p. 215.* *Fac. Col. No 155. p. 354.*

### SECT. VIII.

#### Effect of a Decree of Sale, &c.

1720. *June 21.*

COUPAR *alias* CHALMERS *against* Sir ANDREW MIRETON of Gogar.

No 39.

AN estate having been sold at a public roup for the debts of the liferenter, by an alleged collusion betwixt him and his creditors, during the infancy of his son the fiar, who thereafter brought a reduction and improbation to set aside the purchaser's title to the estate, as acquired *a non domino*, without authority of the acts of Parliament, which give no power to the Court of Session to sell one man's estate for paying another man's debts; the LORDS found the decret of sale was a sufficient production made for the purchaser to exclude the pursuer's title. See APPENDIX.

*Fol. Dic. v. 2. p. 312.*

No 40.

1739. *July 24.* DONATAR of WARD *against* CREDITORS of BONHARD.

A PUBLIC sale does not purge the estate of the debts and diligences affecting the same. These remain a burden upon the estate until the purchaser make payment of the price. See APPENDIX.

*Fol. Dic. v. 2. p. 312.*

1753. *July 28.* URQUHART *against* OFFICERS of STATE.

No 41.

A DECREE of sale does not deprive persons of their right who were not parties to the process, nor derived right from the bankrupt's predecessors.

*Fac. Col.*

\*\*\* This case is No 15. p. 9919. *voce* PATRONAGE.