

BRAXFIELD. It is founded in the common law of Scotland, that no man can be bound to remain in any general or particular communion longer than he chooses. It is said that, by the common law of Scotland, commonties could not be divided; but it does not follow that common property could not be divided. Commonties were established, by the will of the proprietor, for the joint use of many. When improvements began to be introduced, it was considered that to suffer land to be enjoyed in common was an abuse of property, and this gave rise to the statute 1695.

ALVA. The parties have entered into a community: no one of them can depart from it.

GARDENSTON. There is no subsisting copartnery here.

PRESIDENT. How can a better rule be followed than that which, from a similar necessity, is followed with respect to a ship?

On the 8th February 1782, "The Lords repelled the objection."

Act. J. M'Laurin. *Alt.* A. Wight.

Reporter, Kaimes.

Diss. Alva.

1782. February 20. THOMAS GEMMIL *against* Colonel JOHN WALKINSHAW
CRAWFURD.

JURISDICTION.

An Action of Damages, founded on an Acquittal in the Court of Justiciary, is not competent before the Court of Session.

[*Fac. Coll. IX. 56; Dict. 7422.*]

It was the opinion of the Court, that no expenses could be demanded in this Court on account of a cause which had been tried in the Justiciary Court, and that the party supposing himself to have been injured ought to have applied to the Court in which the injury is done.

Act. G. Ferguson. *Alt.* S. Boswell.

Reporter, Alva.