

claim of defence in the process of exhibition of the verdict of a jury, where-
in your wife, Janet Stevenson, is found fatuous, so I hereby promise to give
you no opposition in any respect in the reduction and exhibition of the said
verdict, or any other in my name, or for my behoof, by either word or writ,
from me, in any manner of way ;” and, upon the successful issue of the pro-
cess of reduction therein mentioned, the present action for payment of the sti-
pulated sum of L. 155 was brought, and, *prima instantia*, a decree passed for it ;
which the Court reversed.

No 98.

Act. *W. Nairne.*Alt. *Rae.*Clerk, *Campbell.**Fol. Dic. v. 4. p. 26. Fac. Col. No 41. p. 111.*

1783. February 28.

AITCHISON *against* ———

THE LORDS found it was unlawful for a person intending to bid at a roup, to
give money to others that they might refrain from bidding. See APPENDIX.

No 99.

Fol. Dic. v. 4. p. 35.

1783. March 1.

MURRAY *against* MACKWHAN.

A tenement situated in the town of Kirkcudbright was exposed to judicial
sale at Edinburgh. The only persons who intended to purchase this subject
were Mackwhan, together with William Johnston and John Hutton, all of
whom were commissioned by other people for that purpose.

No 100.
Combination
of intended
offerers at a
sale.

These men, desirous to take advantage of their situation, by acting in con-
cert, formed the following scheme. One of them, for their common benefit,
was to purchase the subject at the upset price. Each man was then to mark
secretly on a slip of paper the highest offer which he had been commissioned
to make, and he whose offer was found on comparison to exceed the rest, was
to be preferred to the purchase ; whilst the excess of that highest offer beyond
the upset price was to be distributed among the associates to the amount to
which their several offers should have concurred. The tenement being sold
for L. 300, the upset price, the result accordingly was, that as Hutton's com-
mission exceeded that sum in L. 98, that of Johnston in L. 210, and that of
Mackwhan in 300 ; so to the extent of L. 98, all their offers thus far concur-
ring, there fell to be an equal division among them ; and two of them, Johnston
and Mackwhan, likewise uniting in the offer of L. 210, the excess of that sum
above the former offer came to be shared between them ; but here the distri-
bution ended ; the concurrence reached no farther. Mackwhan being of course
preferred to the purchase, granted bills to his associates for those respective
sums.