

BRAXFIELD. The power of admitting burgesses is in the Magistrates. Fines have always been exacted: as Magistrates have the power of fixing them, they have that of altering them according to circumstances.

On the 21st July 1786, "The Lords repelled the reasons of reduction," (unanimously.)

*Act.* R. Dundas. *Alt.* Ch. Hay.  
Memorials Inner-house.

1786. August 20. WILLIAM SIMPSON *against* JAMES HENDERSON and OTHERS.

SALE.

What delivery requisite to transfer the property.

[*Faculty Collection, IX. 446; Dictionary, 14,204.*]

BRAXFIELD. This cause must be determined on the contract, and not on general principles. There was an appropriation of the ship at different periods.

ELLOCK. There is neither justice nor common sense in the plea of the creditors. They desire to take the benefit of the contract without implementing it.

HENDERLAND. It should seem that the property was not transferred.

PRESIDENT. I puzzled myself as to questions of *renditio, periculum, &c.* But, at length, I came to an opinion. Here there is a fair contract: the creditors must implement it, and so must the shipmaster.

MONBODDO. What is determined here, must be the rule in every case. Where a person employs another to perform any work for him, the property is in the employer. I should conceive that to be the case, although no money had been advanced.

On the 2d August 1786, "The Lords found that Simpson is entitled to the property of the ship, he accounting to the creditors in terms of the original contract."

*Act.* W. Tait. *Alt.* Al. Wight.

*Reporter,* Monboddo.

*Diss.* Stonefield. *Non liquet,* Henderland.