

TACKS, see also MASTER and TENANT.

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TAILYIE.

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1772. July 31. The EARL of ABERDEEN *against* IRVINE of DRUM.

DURING the dependance of the process of reduction, Irvine of Drum against the Earl of Aberdeen, &c., a discovery was made by the defenders, that the entail of the estate of Drum 1683 had never been properly recorded, in regard that, although the charter upon the entail and a relative nomination of heirs had been produced, the entail itself had never been produced judicially in the Court of Session, in terms of the Act 1685. They founded their objections, *first*, upon the words of the Act 1685; *secondly*, upon the practice; *thirdly*, upon the decision in the case of *Kinnaird*. "The Lords, 24th July 1772, found that the entail executed by Alexander Irvine of Drum in the year 1683, not being duly recorded, is not valid against creditors and other singular successors." And to this they adhered.

At advising the principal cause, Lord Covington argued that there was a material distinction betwixt this case and the case of *Kinnaird*; for, in this case, the charter contained, and proceeded on a *novodamus*, so that it was truly the tailyie. But none of the other Judges seemed to regard this distinction. And, on an appeal, 9th April 1777, the judgment 24th July 1772 was affirmed.

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1763. December 7. RANKING of BALGAIR.

IN the ranking of Balgair the Lords found, That an heir of entail cannot create a thirlage to a mill not part of the estate; that it was a species of alienation, and fell under the tailyie.

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1772. June . CAMPBELL of BLYTHSWOOD *against* LOVE.

By the tailyie of the estate of Blythswood, it was provided, That the heirs of entail should not set tacks for above the space of nineteen years.

A tack having been entered into of part of the tailyied estate betwixt James Campbell of Blythswood and John Love, for nineteen years from Candlemas