

R U N - R I D G E .

1698. December 7.

JOHN TAYLOR, Portioner of Holehouse, *against* The EARL of CALLANDER and SHAW of Dalquharne.

ARBRUCHELL reported John Taylor, portioner of Holehouse, against the Earl of Callander and Shaw of Dalquharne. This was a reduction of a division of run-rig lands made by the Bailie of the regality of Falkirk, upon the 23d act of Parliament 1695. The reason was iniquity, that you have taken away the land whereon stood my dwelling-house, kiln, barns, and brewery, and allotted me other lands, whereon there is no house nor accommodation at all; whereas the foresaid act requires the Judges to have regard to the mansion-house in the partition. *Answered*, The houses were but mean and inconsiderable, and cannot be meant by the mansion-houses expressed in the act of Parliament, and they will build as good to him. THE LORDS considered the act had not defined how many rooms the mansion-house should consist of, and that men have regard to the place of their birth, and where their predecessors have lived before them, *in qua vixit et defecit pater*, as the Law says, *et minor crevit*, L. 22. Ce De Adm. Tut. and this could not be restricted to towers and other large houses; therefore they reduced the division as iniquous, and if the parties insisted, appointed a new visitation to be made.

Fol. Dic. v. 2. p. 356. Fountainhall, v. 2. p. 23.

1744. December 7. Sir JOHN HALL *against* ALISON CALLANDER.

In a process of division, at the instance of Sir John Hall of Dunglass against Alison Callander, the LORDS found, " That small parcels of land, surrounded by a greater estate, and lying at distance from one another, but each parcel lying

VOL. XXXII.

77 D

No 1.

The mansion-house, however mean, must be respected in the division.

No 2.

Lands lying mixed in larger parcels are not divisible as run-ridge.

No 2. contiguous, and not run-rig, did not fall under the act for dividing of lands lying run-rig." See APPENDIX.

Reporter, *Lord Tinwall.*

Act. W. Pringle.

Alt. J. Philp.

Fol. Dic. v. 4. p. 246. D. Falconer, vol. 1. p. 21.

1755. November 13. The HERITORS of Inveresk *against* JAMES MILNE.

No 3.

A large tract of ground round the village of Inveresk belonged to many proprietors, whose properties lay run-rig. James Milne was proprietor of part of the run-rig lands, and particularly of six acres lying together in an oblong form.

Some of the proprietors having brought an action of division of these grounds, upon the act of King William anent run-rig, James Milne opposed the division as to his six acres which lay together; and *objected*, That the act was confined to the division of grounds lying in alternate ridges; but could not be extended to several acres of ground lying together.

"THE LORDS repelled the objection, and ordered the division to proceed."

Act. Sir John Stewart.

Alt. And. Pringle.

J. D.

Fol. Dic. v. 4. p. 246. Fac. Col. No 162. p. 243.

1766. November 21. WILLIAM BUCHANNAN *against* JOHN CLARK.

No 4.

The act 1695 found not to apply where the fields required to be divided amounted to 13 acres.—

WILLIAM BUCHANNAN and John Clark were proprietors of the lands of Little Udston, which consisted of 112 acres, partly infield, partly outfield.

The infield land consisted of three fields of 13, 29, and 41 acres, two of which, being the fields of 13 and 29 acres, belonged to Clark, the other of 41 belonged to Buchannan.

John Clark being desirous to have his two fields inclosed, and that Buchannan should be subjected in half the expense, brought a process before the Judge Ordinary, founded on the 41st act, 1st session, 1st Parliament of Charles II. subsuming, that he was about to inclose several parts of the lands of Little Udston, and particularly two fields, one of 13, and the other of 29 acres, which lay conterminous to William Buchannan's lands, and concluding, that Buchannan should be decerned, in terms of the act, to bear an equal expense in raising a fence to divide their inheritances.

It was *pleaded* in defence, That as the lands required to be inclosed lay run-rig, the act of Parliament above founded on could not apply, until the lands were divided; and, in order to obtain a division, Buchannan brought a process against Clark, founded on the act of Parliament 1695.