

good against creditors who have a sufficient intimation otherwise of the tailzie, since it is expressed in the infestments: For if the law hath thought proper, for the more security of creditors, to order a publication both ways, creditors have good reason to insist upon their privilege; and though one of them might be thought sufficient security, there is no harm done in commanding both: Multitude of the law breaks not the law.

No. 15

“The Lords found, That the tailzie not being registered in terms of the act of Parliament, cannot prejudice the creditors.”

Rem. Dec. v. 1. No. 52. p. 101.

* * Edgar's report of the sequel of this case is Sect. 5. *infra*.

1726. *February.*HALL *against* CASSIE.

No. 16

Tailzies good against heirs without registration, but not against creditors. See APPENDIX.

Fol. Dic. v. 2. p. 436.

1728. *February 2.* LORD STATHNAVER *against* DUKE of DOUGLAS.

No. 17.

The deceased Jean Countess of Sutherland, proprietor of a small estate near the village of Inveresk, executed a disposition and tailzie thereof in favours of her son Archibald Earl of Forfar, and the heirs-male of his body; which failing, to William Lord Strathnaver, and the heirs-male of his body; which failing, &c. In these lands the Countess thereby “obliges herself, her heirs and successors, under the conditions therein expressed, duly and lawfully to infest the said Archibald Earl of Forfar, and the other heirs of provision; and for that effect to grant procuratories, precepts, and other writs necessary.” And in the procuratory of resignation contained in the said tailzie, provides and declares, “That it shall not be in the power of the said Archibald Earl of Forfar, and the heirs of provision above-written, to contract debts upon the foresaid lands, or others above disposed; or to affect the same with any sum exceeding two years rent for the time. To this is subjoined, “That it should not be in the power of the said Archibald Earl of Forfar, and his heirs of provision, to give away, dilapidate or impignorate the said lands, nor to allocate, or to bestow them in fee or jointure to their Ladies;” and in that case the tailzie is declared to be void and null, in so far as conceived in favours of the person so acting; and the next heir of provision is to succeed in his right and place. This disposition, containing a clause “dispensing with the not delivery,” was

Action competent against an heir to purge the tailzie of his debts, which he had laid upon it contrary to the will of the tailzier.