apprehend the person of such superior, because he thought the statute only gave warrant for a charge against one superior; but he said the Lords might supply this defect in the statute, and upon the immediate superior's refusal might authorise a second charge against the next superior, in the same manner as their predecessors were in use, in the case of apprisings, to grant a second charge against the mediate superior upon the disobedience of the first: but he said he thought the act did not at all relate to the case where the immediate superior was not entered, which still stood upon the foot of the Act 57, *anno* 1474, which directed a charge in such a case against the superior to enter himself within forty days, and in case of his disobedience the practice has been to bring a declarator of tinsel of the superiority against him, in which the next superior was called, and a conclusion against him to enter the vassal. That this being the case, if their Lordships had a mind so far to enlarge the benefit of the late statute, as to extend it to a case to which it did not at all belong, he thought they ought to do it by way of regulation and act of sederunt, not by way of judgment betwixt the present parties.

The Lords, however, by plurality of votes, allowed the charge against the mediate superior to go out.

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1752. *February* 13. ——— *against* ———.

[Elch. No. 18, *Tack.*]

THE Lords found that a tack for 400 years, set by an heir of an entail, with irritant and resolutive clauses, but not recorded, was valid against the subsequent heir of entail. If the entail had been recorded, it is likely they would have found the tack not valid against the heir, for two reasons: 1*mo*, Because the setting of a tack for so long a term is a species of alienation not competent to an heir of entail under irritant and resolutive clauses, nay, even a tack for nineteen years, is, according to Craig, an alienation; and therefore Dirleton, being under the fetters of an entail, though he was laid under no particular restriction with respect to tacks, was obliged to apply to Parliament for a liberty to set tacks for nineteen years, without which it is thought he could not have set a tack that would have lasted longer than his life. 2*do*, An heir of a strict entail duly recorded, is considered, with respect to his predecessor, as a singular successor: now all the Lords were of opinion that such a tack had not the benefit of the statute, nor was a real right that would have been valid against singular successors. Lord Elchies* went so far as privately to declare his opinion that a tack above three nineteen years would hardly have this privilege; and I know it is generally held by lawyers that a tack above 100 years would not; and it is fit it should be so, otherwise those two species of rights, tacks and feus, would be confounded.

* Elchies said from the bench that seasine should be taken upon such tacks to make them real, which he said he had known examples of.