

as such as should be made thereafter. The judgments I mean are in the case of *Dunipace*, and in the case of *Humbie*, both which tailyies were of date prior to the act 1685.

If the act 1685 had in so many words extended to tailyies made before that time, I deny that it would have comprehended such tailyies which remained a personal deed; for till infeftment followed on it, the act of Parliament did not comprehend it, and if that be true, how can it be maintained that that was a tailyie where no infeftment followed before the act; or in other words, a tailyie made since the 1685, so long as it remains a personal deed without seasine upon it, in the sense of this act of Parliament. This I may with some assurance say, after what was in the last resort found in the case of *Westshiels*, where it was found that personal deeds did not need to be recorded, in other words, a personal deed is not a tailyie.

“Now, if that is true, that a personal deed does not become a tailyie till infeftment follow on it, the consequence is unavoidable, that it becomes only a tailyie from the date of the seasine.”

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1759. *December 20.* CLERK *against* BUBNER.

THIS case is reported in *Fac. Col.* (*Mor.* 4471.) Lord KILKERRAN's note of the decision is as follows:—

*December 20.*—“The Lords adhered; and as to the question, whether the administration is sufficient without confirming, the President said, that the letters of administration were enough without confirmation, which he argued from this, that we had receded from many of our ancient notions; we have found no confirmation necessary of goods in the natural possession of the nighest of kin; we have found a bond of corroboration granted to the nighest of kin effectual; we have found more, that payment to nighest of kin is good without confirmation. But all these things notwithstanding, the Lords found that it was necessary to confirm before extract, for so we have always found, and no argument from what we have done can have any influence on this question, concerning the efficacy of their diligence in another country.”