

As to the last observation, the decisions of the Court were quoted in answer; particularly the case of Tranent. This decision was approved of; and although, in that case, the vassals pursued the division, and were opposed by the superior,—and, in this case, the superior and one of the vassals pursued the division, and were opposed by the rest; this made no essential difference: a superior, provided he was part proprietor, was entitled to bring this division as well as any other.* And, as to the first part of the observation, besides what was already observed, there did not appear any personal objection to debar the superior from prosecuting the division, unless that thereby it could be alleged, that there was an infringement upon the warrant-dice. 22d January 1777, “The Lords, on report of Lord Auchinleck, repelled the objection to the process, so far as concerned the run-rig lands; and found that the division thereof, upon the Act 1695, may proceed.”

In reasoning on this cause, the Lords held, that the exception of burrow acres, in the Act 1695, related only to the case of royal burrows, and had been so constructed in practice. Lord Monboddo held the contrary.

1780. July 14. ANDREW MORISON *against* DRYSDALE.

MORISON pursued Drysdale for a division, on Act 1695, anent run-rig. Morison's property lay in two small parcels, cut by Drysdale's property, which surrounded the westmost parcel, and divided it from the east; but then Drysdale's property lay all contiguous, in the form of a crescent, surrounding Morison's eastmost parcel, and dividing it from the west. Morison's two parcels were small;—the westmost about acres, the eastmost about , intersected by part of Drysdale's property, about acres. The Sheriff found that the statute did not apply, the lands did not lie run-rig; Drysdale's property lay contiguous, not cut by Morison's, but having Morison's in its bosom. The Lord Westhall, Ordinary, in an advocacy, remitted the cause *simpliciter*: and the Lords adhered.

* At any rate, this objection struck only at Mr Douglas, one of the pursuers, who was superior, but not at Mr Forrest, the other pursuer, and who was one of the feuars.
