

1780. July 14.

ANDREW MURISON *against* WILLIAM DRYSDALE.

MURISON was proprietor of two inclosures situated near the village of New-haven, one of which contained two acres of ground, the other somewhat less than one. These little fields were separated from each other by another piece of ground, of more than one acre in extent, which belonged to Drysdale; as did likewise a fourth little field, disjoined from this by one of Murison's already mentioned.

No 6.
Small fields, disjoined by others intervening, not the subject of the act 1695.

Murison sued Drysdale on the act 1661 relative to the inclosing of ground, and on that of 1695 respecting lands lying run-rig; concluding in his summons, for straightening marches, and for a division of the grounds.

But the COURT, agreeably to the decision, December 7, 1744, Hall *contra* Falconer, No 2. p. 14141, by which it was found, 'that small parcels of land, surrounded by a greater estate, and lying at a distance from each other, but each parcel lying contiguous, and not run-rig, did not fall under the act for dividing of run-rig,' were of opinion, that the statutes libelled on did not apply to this case, which was neither that of run-rig, nor of run-dale; and therefore

'THE LORDS dismissed the action.'

Act. C. Hay. Alt. Hen. Erskine. Clerk, Tait.

S.

Fol. Dic. v. 4. p. 246. Fac. Col. No 115. p. 214.

1782. January 17.

LADY GRAY *against* BLAIRS.

The lands of Inchyra belonged to Lady Gray, to Mrs Blair of Inchyra, and to Mr Blair of Balthyock; and their respective properties lay blended together in a great number of fields of different sizes. Some of these fields consisted of thirty-five acres, some of them of ten; but by far the greatest part did not exceed five acres.

No 7.
The statute found not to authorise exchanges to a larger extent than four acres at one place.

Lady Gray insisted in a division of the whole, upon the 23d act Parliament 1695, entitled, 'An Act anent lands lying run-rig.'

The Lords seemed to be of opinion, That the latest decisions had rather gone beyond the intention of the Legislature, when authorising the division of run-rig lands. It was likewise observed on the Bench, that the decision Sir Laurence Dundas against Bruce of Kinnaird, in 1773, could not be quoted as a precedent; the process of division in that case having met with no serious opposition. In this case, they refused to sustain action as to the fields containing more than four acres. See APPENDIX.

Lord Ordinary, Ellicock. Act. Nairne. Alt. Rolland. Clerk, Campbell.

G.

Fol. Dic. v. 4. p. 247. Fac Col No 19. p. 375.