inserted in the particular record established for the registration of tailzies by the act 1685.

No. 142. ed by infeftment, before the date of that act, and recorded in the register of sasines.

In opposition to this claim, it was pleaded by his Lordship, That the act founded upon, in the same manner as every other law, could have no retrospect, and was only intended to provide a remedy against future emergencies. He insisted, too, that though the House of Peers, in the case of Rothes, No. 138. p. 15609. had declared, that the act 1685 was to regulate tailzies prior to the date of it, yet that the case itself, which was the foundation of that sentence, explained the sense in which it ought to be received. The tailzie, in the case of Rothes, was never completed by infeftment; consequently, the decerniture of the supreme Court could only have relation to tailzies in the same imperfect situation, but could never be intended to establish a rule for those upon which infeftment had followed, and which, like the present, were recorded in the public register of sasines, patent to all the lieges.

"The Lords found, That the tailzie was not effectual against the creditors, as it had not been recorded agreeable to the statute."

Act. *Lockhart.* Alt. *Burnet.*

A. C. *Fac. Coll. No.* 17. *p.* 30.

1776. *June* 26. IRVINE of Drum *against* EARL of ABERDEEN.

No. 143.

It was found, in the case of an entail, where both the charter and a relative deed of nomination of heirs had been recorded, that these were not sufficient, as the original tailzie itself had not been recorded. This judgment was affirmed on appeal. See APPENDIX.

Fal. Dic. v. 4. *p.* 350.

*** See a similar case, Kinnaird against Hunter, No. 139. p. 15611.

1781. *August* 3. ELIZABETH SPITTAL, Supplicant.

No. 144. Summary application, by a substitute in an entail, for recording the same in the register of tailzies, incompetent, when the entail is not produced.

The petitioner set forth, "That she was a substitute in an entail affecting the lands of Leuchat: That this entail, though executed on the 19th of December, 1678, and the title upon which the estate had always been possessed, had never been recorded in the register of tailzies," and concluded "for service of the petition upon James Spittal, the heir in possession, for an order upon him to produce the deed of entail, and for a warrant for recording the same in terms of the statute 1685."

The petitioner referred to a decision, No. 135. p. 15605. where an application of the same nature was complied with, upon production of a copy of a deed of entail, nowise authenticated.

In this case, the Court refused the petition, as incompetent.

C. *Fac. Coll. No.* 80. *p.* 136.