

# APPENDIX.

## PART I.

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### RUNRIDGE.

1777. January 14.

JAMES GRAY, Portioner of Dalmarnock, against WILLIAM WARDROP, Portioner of the same Village.

THESE parties were each proprietors of lands lying runridge, in the vicinity of Dalmarnock in Lanarkshire. They had each, likewise, a mansion house and offices in the village.

An action, which had been originally brought before the regality court of Glasgow, upon the act 1695, C. 23, for division of these lands, came afterwards before the Sheriff of the county, who pronounced an interlocutor, (10 Feb. 1773,) by which he ordered, that "certain office-houses, now belonging to and in the possession of the said William Wardrop, defender, fall to be laid in and adjudged to the share of James Gray, the pursuer," &c. This judgment Wardrop brought before the Court of Session, by advocacy.

Lord Alva, Ordinary, upon advising memorials, pronounced an interlocutor, (14 December, 1773,) by which, in substance, he confirmed the judgment of the Sheriff, placing the ground of his decision chiefly upon the advantage and conveniency to the parties, which would result from such an arrangement.

When the cause was brought before his Lordship again, he made avisandum to the Lords, and ordered informations.

The argument for the defender was, that the Sheriff had no power to divide offices, as no such thing was authorised by the act of Parliament. The object of the statute was, to promote agricultural improvement, but there was a clause, requiring that the division shall be made, 'so as special regard may be had to the mansion-houses of the respective heritors; and that there may be allow-

No. 1.  
The office-houses belonging to proprietors of runridge-lands cannot be included in the division.

No. 1. ' ed and adjudged to them the respective parts of the divisions, as shall be most ' commodious to their respective *mansion houses and policy*, and which shall not be ' applicable to the other adjacent heritors.'—In this clause, the terms ' mansion ' houses and policy,' must be understood to include offices, which were a necessary part or accessory of these. It includes, likewise, gardens and the immediately contiguous inclosures. The case of Taylor against Earl of Callender, December 1698, No. 1. p. 14141. was referred to as applicable.

The pursuer, on the other hand, argued, that although the statute excepted mansion houses, it excepted no other kind of houses, which consequently ought to be divisible along with the land on which they stand. Without this the act might be frustrated; for one wishing to evade it, had nothing to do but build straggling houses upon the different parts of his disjointed property.

As the statute had for its object the improvement of the country, the most liberal construction ought to be given to it. Of this, a late instance had occurred, in a case between Sir Lawrence Dundas and Bruce of Kinnaird, where large parcels of ground, not less than 20 acres in extent, had been found divisible upon the statute: And this, although Bruce objected that *houses* had been built for his tenants upon parts of these.

The like extensive application of the act was applied in the cases of Inveresk, 13th November, 1755, No. 3. p. 14142; and Chalmers against Pew, 29th July, 1756, No. 12. p. 10485.

An attempt was made to shew that the offices in question had been erected *currente processu*, but this point did not affect the Court in their decision of the general question.

The interlocutor of the Lord Ordinary was altered, and it was found that the offices could not be included in the division.

Lord Ordinary, *Alva*.

For the Defender, *Robert Cullen*.

For the Pursuers, *Ilay Campbell*.

*W. M. M.*

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1777. *January 21.*

ARCHIBALD DOUGLAS of Douglas, and THOMAS FORREST, Writer in Douglas, *against* JOHN INGLIS, and Others.

No. 2.

What lands are to be considered as run-rig in terms of the act 1695, C. 23.

AN action was brought by the pursuers for dividing the ten pound land of the Kirktown of Douglas.

A considerable part of this ground had been feued out from time to time in small parcels to different proprietors. Besides the parcels so feued out, there was a tract of ground under the denomination of a *common*, over which the defenders had been in use to exercise various servitudes, some of feal and divot, and others of common pasturage.