

1745. July 30.

The FREEHOLDERS OF INVERNESS-SHIRE *against* The VASSALS of the Estate of
Ross.

No 101.

AN objection was made to the titles of these gentlemen to stand on the roll of electors for the county of Inverness; that, by act 71st, Parl. 9: Ja. III. the Earldom of Ross, which had been forfeited, was appointed to be a provision for the King's second son, which was confirmed by act 30th, Parl. 11. Ja. VI.

Answered; The first act only statuted, 'That, notwithstanding the annexation thereby made, it should be in the Kings' power to give the estate of Ross to any of their second sons.' And the second act, which was more indistinct, referred to the first.

The Earldom of Ross was accordingly given to the second son of James III. with a clause of return failing his issue, in virtue whereof it had returned; but, according to the sense put upon the statutes by the objectors, this estate behoved, on the death of a King, to shift out of the person of his second son into that of the second son of the Prince then succeeding to be King.

Replied; By the style of our acts of Parliament, when it is statuted to be lawful or leisom to the King to grant any right, this gives a right to the party to have such a grant. By the act 1592, concerning mines and metals, it is statuted to be leisom to the King to make grants thereof, and it has been found, that, by this statute, the heritors have right.

THE LORDS repelled the objection.

Act: R. Craigie.

Alt Lockhart.

Fol. Dic. v. 3. p. 413. D. Falconer, v. 1. p. 126.

1747. November 10.

KERR of Moriston, and other Freeholders of Berwickshire *against* PRIMROSE

No 102.

A PERSON enrolled by the freeholders as heir apparent to the eldest of three heirs-portioners, was, on a complaint, ordered to be expunged; though it was *argued*, that the first adjudger is entitled to vote, so the eldest heir-portioner should have the right of the vote, which, though she cannot exercise herself, might accrue to her husband or her son.

Fol. Dic. v. 3. p. 415. Kilkerran. D. Falconer.

* * * This case is No 17. p. 8577.