

creditors in satisfaction of their debts, in whole or in part, according to the value put upon them. Cap. 3. Heritable offices, as well as lands, universally apprifed and adjudged to creditors, and difponed to them by the King, in execution and implement of the act of Parliament. Cap. 4. Lands and certain fees belong to heritable offices of jurisdiction, apprifed during the time of the usurpation (when offices themselves were fuppreffed), and accordingly difponed to the creditors by charters under the Great Seal, *vide* Scobell's Collection of the acts of Parliament, from 1640 to 1656, cap. 2. anno 1652, and cap. 9. anno 1656. Cap. 5. Heritable offices adjudged by creditors after the debtor's death, upon the apparent heirs renouncing to be heirs to the debtors their predeceffors; and the adjudgers ordained to be infeft in the offices by decree of the Lords of Seffion, upon precept under the quarter feal, and alfo upon charters under the Great Seal. Cap. 6. Heritable offices, judicially fold by public roup, by the Court of Seffion, and poffeffed by the purchafers upon thefe titles.

Acts of Parliament, cap. 1. confirming charters of offices to the grantees, and declaring the fame to be good and effectual rights. Cap. 2. Heritable offices are the property of the owners as much as lands or any other inheritance, and have been always excepted from general public laws as rights of property, and as fuch, fupposed by the Legislature, to be alienable by the proprietors; and, in confequence of this, the act 1681, declaring a cumulative jurisdiction, and the impofing judges, where there were heritable offices and jurisdictions, are declared illegal by the claim of right; and heritable officers difpoffeffed by the crown, have been reponed by act of Parliament to the enjoyment of their offices, as their property vefted in them by their rights and infeftments.

THE LORDS adhered.

Act. *R. Craigie, W. Grant, & H. Home.* Alt. *Graham & Fergufon.* Clerk, *Kirkpatrick.*  
*D. Falconer, v. 1. p. 373.*

1749. February 17. EARL of CAITHNESS *against* SINCLAIR of Ulbfter.

THE town of Wick was erected into a royal burgh, by a charter from the Crown, anno 1589, containing regulations for electing the magiftrates and council, in the following words: ' Cum fpeciali et plenaria potefitate liberis inhabitantibus et burgenfibus dicti burgi, et fuis fuccefforibus in futurum, cum expreffo avifamento et confenfu dicti noftri confanguinei Georgii comitis de Caithnefs, et ejus hæredum et fuccefforum, et non aliter feu alio modo, præpofitum et quatuor balivos, dicti burgi incolas, feu inhabitatores, una cum thefaurario, gildæ decano, confulibus, burgenfibus, ferjeandis, aliifque officiariis neceffariis intra dictum burgum, pro gubernatione ejusdem, faciendi, eligendi, conftituendi et creandi, eofque, toties quoties expediens videbitur, pro caufis rationalibus, deponendi.'

No 18.

The privilege of fuperintending the election of a town, found to be adjudgable.

No 18.

This privilege of superintending the elections of the town of Wick, was adjudged from the family of Caithness, with the land-estate; and first, the Earl of Breadalbane, and thereafter Sinclair of Ulbster in the Earl's right, got into possession of this privilege, during the time that the affairs of the family of Caithness were in disorder. A declarator, at the instance of some of the burgeses of the town, to regulate their elections, according to the form prescribed in the said charter, furnished the present Earl of Caithness an opportunity to appear for his interest, and to dispute Ulbster's right to this privilege. He contended, that it is purely personal, and not alienable more than his peerage, whether by a voluntary or judicial deed: The privileges attending peerage, a seat in Parliament, and exemption from personal execution, are not alienable: A right of burgeship is not alienable, nor the privileges of a royal burough: The East India Company cannot alienate their privileges, nor any other company erected with exclusive privileges. The reason is the same in all, that these privileges are personal, and for that very reason not alienable; yet some of the privileges mentioned are attended with pecuniary advantages, which the privilege under consideration, neither is nor can be. *2do*, The Earl of Caithness can exercise this privilege in the state of apparençy; it does not subject the heir to the passive title, more than assuming the dignity, or bearing the family arms. It is therefore not patrimonial, to be carried by adjudication.

*Answered* for Sinclair of Ulbster: By the constitution of our law originally many things were exempted from commerce, heritable offices, jurisdictions, and even land itself, though the most natural object of commerce. But now we lean to the other side, that all rights are alienable, unless the contrary be specified in the grant. It is indisputable, that personal privileges conceived to heirs and assignees are alienable; which is the present case; because this privilege is given to the Earl of Caithness, his heirs and successors: And when a patronage, an heritable office, an heritable jurisdiction, are alienable, there can be little doubt that the privilege under consideration is also alienable.

'THE LORDS first found this privilege not alienable; thereafter, that it is alienable.' (See PERSONAL and TRANSMISSIBLE.)

*Rem. Dec. v. 2. No 104. p. 199.*

1755. November 28.

GEORGE OUGHTERLONY of London, Merchant, *against* The EARL of SELKIRK.

No 19.  
An adjudication of the lands, found to comprehend the mines.

SIR ALEXANDER MURRAY of Stenhope, obtained a charter of mines from the CROWN. It recited the 12th unprinted act, Parl. 12. Ja. VI. 1592, and granted to Sir Alexander, his heirs and assignees, all the mines found, or to be found, in his lands in the county of Peebles.

After the date of this charter, the creditors of Sir Alexander did diligence against his estate. The Earl of Selkirk adjudged the lands; Oughterlony adjudged both lands and mines.