

No 177.

. This case is reported by Lord Kames :

GORDON of Ardmealie, *anno* 1733, disposed the lands of Zeuchrie to his eldest son Archibald, who, upon a charter under the Great Seal, was infeft. But it was understood, that though the land was of a sufficient valuation, it could not entitle Archibald to elect or be elected a Member of Parliament, because of a reservation to the father, not only of his liferent, but of a power to alien and contract debt without limitation. Archibald died without issue, and the succession opened to his brother James, who, wanting a qualification to be a voter, obtained from his father, 15th July 1752, a renunciation, not only of his life-rent, but of all his powers and faculties. Upon the production of these titles to the Michaelmas Head Court 1752, James claimed to be enrolled as heir apparent to his brother; and he being accordingly enrolled, a complaint was brought before the Court of Session, by Abercrombie of Glassoch, insisting upon the following *objection*, That Archibald Gordon himself, the predecessor, against whom the said reservations subsisted during his life, had himself no right to vote; and that no man who claims as apparent heir can have a better title than his ancestor.

“ THE LORDS sustained the objection, and ordained James Gordon to be expunged from the roll.”

Sel. Dec. No 46. p. 52.

No 178.

1755. *January 17.*GALBRAITH *against* CUNINGHAM.

A FREEHOLDER is entitled to be enrolled upon the right of apparenry, though he has already made up his titles; for the privilege of being enrolled immediately, is given to heirs, not because they are in the state of apparenry, but because it seems reasonable that they should have the same right to vote as their predecessor, though they should not have made up a proper feudal title; and the act 1681, when giving that privilege to heirs, could not with propriety mention any other but apparent heirs; because, as the law then stood, even a singular successor was entitled to be enrolled as soon as he was infeft.

Fol. Dic. v. 3. p. 425. Fac. Col.

. This case is No 51. p. 8644.

No 179.

An apparent
heir of a na-
ked superio-

1755. *March 5.* JOHN MURRAY of Philiphaugh *against* Dr JOHN NIELSON.

SAMUEL NIELSON, at his death, left a disposition of his lands of Etrick-house, to certain trustees for uses. The disposition contained procuratory of resignation,