

retained lands has not been properly ascertained, this will not authorise a striking off the roll; 9th August 1774, *Stewarts contra Daniel Campbell*, No 209. p. 8834.

No 250.

Answered; The statutes authorising the Court of Session to controul the proceedings of freeholders being of a remedial nature, ought to be so construed as to fulfil the purpose of the Legislature. In the present case, such a construction is evidently necessary. Without it, if a freeholder, after an alteration of circumstances, could prevail on a meeting to permit his continuing on the roll, although he had no right so to do, the wrong would be irreparable; *Wight on Elections*, page 136; 15th January 1766, *Ross of Aitnoth and others contra Sir John Gordon and Leonard Urquhart*, No 244. p. 8864.

If in such cases as the present, the Court of Session may interpose, no reasonable objection can be here stated to the form of the application. The judgment of the freeholders may be considered, either as an enrolment of the party on his new and restricted qualification, or as a refusal to sustain what was a sufficient objection to the former enrolment. And in either of these views the Court are authorised to give redress, by directing the name of the party to be expunged. The case referred to on the other side was very different from the present one, the proceedings having been held at a Michaelmas meeting, where no objection could be listened to which had not been lodged two months before.

By a considerable majority of the Judges, the application for a restriction was viewed as an objection made by the freeholder himself to his continuing on the roll, in virtue of the lands formerly belonging to him.

And therefore the LORDS found, that the petition and complaint was competent.

Act. *Mat. Ross, Hope.* Alt. *Hay.* Clerk, *Sinclair.*
G. *Fol. Dic. v. 3. p. 433.* *Fac. Col. No 173. p. 354.*

SECT. III.

Of Objections not stated, or Evidence not produced to the Freeholders.

1761. July 28. STEWART *against* DALRYMPLE.

FOUND, that objections not stated to the court of freeholders, may be insisted in before the Court of Session.

No 251.

Fol. Dic. v. 3. p. 434. *Fac. Col.*

* * * This decision, affirmed on appeal, April 1. 1762, is No 18. p. 8579.