No 95. milar case, 17th January 1755, Buchanan of Carbeth *contra* Cunningham of Ballindalloch, *infra*, *h. t.*

Answered; As the act of the 16th of Geo. II. expressly repeals one part, (viz. § 4.) of the 12th of the Queen, it is presumeable that, if the legislature had meant to repeal any other clause of this statute, it would have done so in terms equally explicit. It is, no doubt, a maxim of universal law, that *leges posteriores priores contrarias abrogant.* But a direct repugnancy, or inconsistency, is necessary to the application of this maxim; and, where both enactments can subsist, a repeal of the former is not to be presumed; Blackstone, Introduction, § 3. The act of George II. does not say, that every singular successor, whose sasine has been registrated a complete year, shall be enrolled. Its aim was to limit the right of singular successors in a particular respect; and it is not from thence to be inferred, that another limitation, imposed by a former statute, was meant to be removed. The two statutes are directed to different objects. The first was intended to prevent an improper multiplication of votes at an election; the last to obviate a similar abuse at the ordinary meetings of the freeholders. Both of them have their use; and they are in no shape derogatory from one another.

Upon this point, it was *observed* on the Bench, that a jugdment so long acquiesced in, as that in the case of Buchanan *contra* Cunningham, was not now to be overturned.

THE COURT, therefore, 'found the freeholders did wrong in refusing to admit the complainer upon the roll;' and ordered him to be enrolled accordingly; to which judgmennt they adhered, upon advising a reclaiming petition and answers.

Lord Ordinary, *Covington.* Act. *G. Ferguson et Ilay Campbell.* Alt. *Wight et Crosbie.*
L. *Fol. Dic. v.* 3. *p.* 411. *Fac. Col. No* 3. *p.* 3.

*** The like judgment was given, *eodem die*, in the case of Sir Walter Montgomery-Cunningham, who had obtained a division of his valuation before a similar meeting of the Commissioners.

SECT. VII.

Where the Proprietor has alienated a part of his estate.

No 96. 1766. *January* 17. M'LEOD of Cadboll *against* Sir JOHN GORDON.

M'LEOD of Cadboll stood enrolled on his whole estate valued in the books of supply at L. 1361 : 10s. In the view of creating freehold qualifications, he ob-

tained a division of this *cumulo* valuation, and granted a feu of the whole to separate the superiority from the property. He then obtained a charter on his own resignation, and granted wadsets of the superiority to some, and conveyonces of different parts in liferent to others, and to himself in fee, the lands of which he retained the fee appearing from the division to be valued at L. 532 : 6 : 4. The freeholders struck him off the roll, in respect of this alteration of his circumstances; but the LORDS ordered him to be re-placed. *See* APPENDIX. No 96.

Fol. Dic. v. 3. *p.* 412.

1781. *January* 17.

Sir JOHN SCOTT of Ancrum, Bart. and PATRICK KER of Abbotrule, Esq; *against* Sir GILBERT ELLIOT of Minto, Bart.

No 97.
A party split his estate into several parcels to create votes, retaining one to himself, without obtaining a new disjunction. As it evidently appeared there was still sufficient valuation left, an objection to his vote was repelled.

SIR GILBERT ELLIOT, as heir apparent to his father, was enrolled a freeholder in the county of Roxburgh, in 1777, and was then chosen Member in his father's place. He at that time stood upon his whole estate, the valuation whereof was above L. 4,000 Scots. In expectation, however, of a contest at last general election, when he was again a candidate, he created nine qualifications in the usual way, and presented a claim for having his own qualification restricted to one of the nine which he had reserved, when he granted a liferent of the rest. Objections being stated and over-ruled at the meeting of freeholders, which happened both to be the Michaelmas head-court and the election day, they were brought before the Court of Session by a summary complaint.

As Sir Gilbert had still the fee of the whole estate, it was undeniable that he might continue upon the roll in that right, whatever became of his limited qualification, though he could not vote but in absence of the liferenters. From the terms, however, of his claim of restriction, it was strenuously argued, that he had in fact done what he could never rationally mean to do, viz. put it beyond his power to continue on the roll as a fiar, in case the qualification, of which he had also the liferent, should be set aside. Besides this argument, which seemed to be merely an ingenious criticism upon words, the three following objections were urged against the limited qualification.

In the *first* place, the decreet of division pronounced by the Commissioners of Supply was null and void; for they had thrown together two separate *cumulo* valuations, and then made their division of the joint *cumulo*; whereas they ought to have taken the separate *cumulos* as they stood, and made a separate division upon each. The separate *cumulo's* were Minto and Craigend; and, as evidence of their being separate, there was produced an extract from the Exchequer, of the original valuation-roll of the county, made up in 1680, by the Commissioners, who had powers granted for that purpose by the act of conven-