

No 259.

1768. February 23. ——— against REID of Logie.

REID of Logie claimed to be enrolled a freeholder of Forfar at Michaelmas 1767, and produced as his titles; *1mo*, Charter of the lands claimed on in favour of Alexander Stormonth; *2do*, Disposition from Thomas Stormonth, the son of Alexander, in favour of the claimant, containing an assignment to the unexecuted precept of the charter; and, *3tio*, His own instrument of sasine in virtue of that precept. But, when the claim was moved, Thomas Stormonth's general service to his father, a necessary link to connect Thomas with the precept, and to enable him to convey it, was not to be found. The freeholders, however, overruled the objection. The Court of Session altered this judgment. But the House of Lords, on appeal, in respect that the retour of Thomas's service was in the hands of the clerk to the meeting of freeholders, on the morning of the day of their meeting, and was then lost by accident, so that an extract could not be got thereof during the sitting of the meeting, but which extract was produced to the Court of Session, ordered the interlocutor to be reversed. — See APPENDIX.

*Fol. Dic. v. 3. p. 436.*

1773. March 11.

ALEXANDER GORDON of Whitley, against General JAMES ABERCROMBY, and Others.

No 260.

It is competent in the Court of Session to receive evidence explanatory of a claimant's title, to remove an objection sustained in the Court of Freeholders.

MR GORDON claimed to be enrolled as a freeholder in the county of Banff, upon certain lands, and among others, 'the lands of Inveraurie, and the lands of Inverhebit, formerly called Middle, or Little Inverhebit, and now called Beilcherach of Inverhebit.' To prove the valued rent of these particular lands, he referred to an article in the valuation-roll, made up in 1690, stated thus: 'Inveraurie and Inverhebit, L. 250.' To this claim it was *objected, inter alia*, that there were three different farms of the name of Inverhebit, viz. Easter, Wester, and Middle, or Little Inverhebit; and that no evidence was produced to show, that the valuation stated in roll 1690. to Inveraurie and Inverhebit, applied only to Little Inverhebit. The freeholders sustained the objection, and refused to enrol.

Mr Gordon complained of this judgment, and offered to prove, that the lands of Little Inverhebit, now called Beilcherach, were the lands which, together with Inveraurie, had uniformly paid cess for the article of L. 250 in the valuation-books. And of these points the Court allowed a proof.

*Plcaded* by the respondents to the complaint, in a reclaiming petition; It is a clear point, that this Court have no original jurisdiction for enrolling freeholders. They have only a power, by statute, to review the proceedings of the free-