

such a plea. She then resorted to her original plan, of attempting to discredit the respondent's witnesses; and, with this view, she gave in a minute and condescence, desiring leave to re-examine four persons whom she formerly adduced upon her proof of objections, by whom she proposed to prove certain conversations said to have taken place between James Spalding, Margaret Johnstone, and Thomas Brockie, witnesses for the respondent, about the time, or after they had given their evidence in the cause.

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 LA MOTTE  
 v.  
 JARDINE.

The Commissaries pronounced this interlocutor:—" In Aug. 29, 1787. " respect the interrogatories have no connection with any " fact stated in the libel, and do not fall within the meaning " of the conjunct proof allowed to Mrs. Jardine, but have " no other tendency than to discredit the depositions of the " witnesses, setting up in opposition thereto a proof of con- " versations alleged to have taken place among the witnesses " after being examined; find the interrogatories incompetent, " and refuse to put the same."

Thereafter the Commissaries pronounced decree, finding the libel proven, and decerned. This decree was extracted when the appellant brought a reduction of the decree.

The Lord Ordinary pronounced judgment, repelling the June 14, 1788. reasons of reduction, assoilzied the respondent, and decerned; and, on two reclaiming petitions to the Court, they ad-  
 —28,—  
 —29,—  
 hered.

These interlocutors were appealed to the House of Lords. After hearing counsel, it was Ordered and adjudged that the interlocutors be affirmed.

For Appellant, *Arch. Macdonald, Jas. Allan Park.*  
 For Respondent, *Sir J. Scott. T. Erskine, Robert Dallas.*

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WILLIAM MOREHEAD, Esq.,	<i>Appellant ;</i>
CHARLES EDMONSTONE, Esq.,	<i>Respondent.</i>

House of Lords, 28th Feb. 1791.

SASINE—DISPENSATION CLAUSE—TITLE—QUALIFICATION.—Held, terms of dispensation clause in a charter sufficient to authorize infestment at the place mentioned in the charter, for any part of the lands, as well as for the whole. Also, that the valuation of

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the lands having been fixed by a decret of the Commissioners of Supply, the same must stand good, and entitle the proprietor to be enrolled as a freeholder of the county.

At a meeting of the freeholders of Stirlingshire, held for electing a member of parliament, the following objections werestated to the respondent's title to be admitted to the roll, viz. 1. That the claimant's sasine is void and null, in respect that the dispensing clause in the charter gave no authority for taking infestment at the Manor Place of Kilsyth, quoad his lands; for although it bears that a sasine to be taken there should be sufficient for the *whole lands* and others mentioned in the charter, it contains no declaration that such sasine should be sufficient for *any particular part* of these lands; 2. The claimant's pretended qualification is altogether nominal and fictitious, and was never intended to give him a free and independent freehold for his own behoof; 3. That, in the valuation book, the lands of Clangor stand valued at £710. 18s. Scots; and the teinds thereof at £100 Scots, and although these cumulos were thrown together and divided in 1707 among the different parcels composing the lands of Clangor, and which division was approved of by the Commissioners of Supply in 1786, upon the application of Sir Arch. Edmonstone, and the different parcels of land now claimed on do, with the teinds thereof, according to this decret of approbation, stand valued at £410. 13s. 4d. Scots, yet the titles produced by the claimant do not give him any right whatever to the teinds; and, consequently, it does not appear that he is possessed of the valuation required by law.

In answer, it was stated; 1. That the clause of dispensation in the charter did authorize the taking of sasine in the way that had been done. Clauses of union and dispensation, when properly expressed, may support an infestment in a particular parcel of lands, although taken at a place beyond the boundaries of such parcel. The objection says, that the clause only allows infestment to be taken *of the whole lands* at the Manor Place of Kilsyth, or upon the ground of any part of the lands, but gave no authority for taking infestment of *any particular parcel*, except upon the ground thereof. The bare perusal of the clause must show this objection to be frivolous; the words "*pro omni parte earundem*," certainly mean, for every or any part of the lands; and being used after the words "*pro dictis totis terris*," plainly point

out what was meant. It is therefore clear that sasine may be taken at the Manor Place for the whole estate, and also for every or any part thereof; 2. That the qualification was neither nominal nor fictitious; 3. That the valuation of the lands was legally ascertained by a decret of the Commissioners of Supply; and, 4. That the objection as to the teinds was irrelevant, as had been determined in several cases. Although his titles gave him no right to the lands *and the teinds*, yet they gave him right to the lands, with the parts, pendicles, and pertinents, and all the charters granted to the vassals contain both lands and teinds, and the vassals have always been in possession of both for time past memory. It will not do therefore to attempt, as is here done, to separate the teind from the land, and in this way reduce the valuation below the requisite qualification.

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The Court of Freeholders sustained the objections; and, on complaint to the Court of Session, the Court pronounced this judgment:—"repel the objection to the complainer's sasine; and also repel the objection to the valuation of the complainer's lands."

Dec. 9, 1790.

Against this interlocutor the present appeal was brought.

After hearing counsel, it was

Ordered and adjudged that the interlocutor be affirmed.

For Appellant, *Alex. Wight, Sylv. Douglas.*

For Respondent, *George Ferguson, J. Campbell.*

NOTE.—Another case, *Muirhead v. George Edmonstone*, was determined in the same manner. Also, *Muirhead v. Johnstone of Alva*, determined a few days thereafter.

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PETER SPEIRS, Esq.,	.	.	<i>Appellant;</i>
SIR ALEXANDER CAMPBELL, Bart.,	.	.	<i>Respondent.</i>

House of Lords, 5th March 1791.

FREEHOLD QUALIFICATION — TRUST DEED — APPARENT HEIR'S RIGHTS.—Held, although a deceased father had left his whole estate to trustees, who were infest, that his heir was still entitled to be enrolled as possessing a good freehold qualification,—the possession of the trustees being for his behoof, and their possession being considered as his.

The respondent having claimed to be enrolled as a free-