

were liable to be fined ; but the meeting of freeholders for enrolment or election, appointed by the Act 1681, was quite of a different nature, being intended for a different purpose, and a meeting where the sheriff had nothing to do ; that whatever compulsitor there was upon the freeholders, by Act 1681, to attend this meeting, there was certainly none by the last statute, at least none that was actionable before this court.

LORD KAIMES was of opinion that the court had no jurisdiction at all in the matter, neither by summary complaint nor ordinary action ; and he seemed to think that the complainers in this case could not have brought a declarator in common form, to have it found that they had a right and title to be enrolled and vote as freeholders ; for he said there were some things in which the Court, by its nature and constitution, had no jurisdiction, such as questions of precedence among peers, rights to peerages, privilege to bear arms, &c. ; and among these he reckoned the privilege of choosing or being chosen a member of the House of Commons, unless so far as power was given to the Court by particular statute ; but this was a point the Court had no occasion to decide.

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#### COMPLAINT FROM STIRLINGSHIRE.

1754. *January 4.* CAPTAIN CAMPBELL *against* HALDANE.

[*Elch. M. P.* No. 61, 62, 63 ; and *Fac. Coll.* No. 96 and 105.]

A FREEHOLDER in this county having purchased lands, took from the seller a disposition in common form, with procuratory of resignation and precept of seasine, upon which precept he took infeftment : after this he executed the procuratory of resignation, and expedite a charter from the crown, which charter also confirmed the base infeftment ; and this charter with the seasine upon it, he mentions, in his claim to be enrolled, as his title. It was objected, that this charter could be no title for enrolment, because *ex facie* it was null and void, as bearing a confirmation of the prior base infeftment, which made it impossible for the procuratory to be executed, and rendered the charter of resignation void and null. This objection the freeholders sustained ; but, upon a complaint, the Lords unanimously ordained him to be enrolled, because they thought that a man having sundry titles to lands might claim upon any of them, and the freeholders could not set up one of his titles against the other, nor make his right hand fight against his left.

LORD ELCHIES said, that as the precept was to infeftment holding either *a me* or *de me*, the seasine taken upon that precept would apply to either manner of holding ; and supposing it to be a seasine *de me*, the confirmation of it was very consistable with the charter of resignation.