

their title by complaint to the Lords of Session before 1st December 1743, as directed by act 16th of the present King; but there having been an adjudication led of their estate 27th February 1733, on which infeftment followed 1st May 1735, the legal whereof therefore appeared *ex facie* to be expired in February 1743, it was moved in the Court of Freeholders to have them expunged the roll at Michaelmas 1747, upon this alleged alteration of their circumstances; and they being continued, a complaint was preferred by Alexander Home-Campbell and George Ker of Nisbet to the Lords of Session.

*Answered*, The last roll as it stood before December 1743, is declared by the act of Parliament to be the roll of constituent members, which the freeholders had no power over; it having only been competent to them to apply to the Lords of Session for correcting it before that term, which in this case was not done, and afterwards they could only proceed on alteration of circumstances, and there was no alteration since December 1743, as the adjudication was prior thereto, upon which no possession had ever been attained.

*Replied*, There had been an alteration since enrollment by expiration of the legal, which warranted the freeholders to proceed; as after expiration, the right of voting is competent to the adjudger.

*Observed* on the Bench, That by the statute the freeholders could not remove any standing on the roll last made up, which was declared to make the roll of constituent members for the first Court, but behoved, if any stood there without title, to apply in due time to the Lords of Session: And also, that the act 1681, in giving the vote after expiration of the legal to the adjudger, behoved to be understood of adjudgers in possession; as possession is necessary to intitle to a vote, and though a legal may seem to be expired, it is impossible, so long as possession is not had upon the adjudication, to know what reasons there may be for finding it still open.

THE LORDS repelled the objection, and found expences due.

*Act. R. Craigie.*

*Alt. Lockhart.*

*Fol. Dic. v. 3. p. 415. D. Falconer, v. 1. No 254. p. 341.*

1754. March 6.

CAMPBELL *against* STIRLING.

A wadset of superiority comprehending a property of a small part of the lands, where the casualties were renounced, and the rents and feu-duties warranted to extend at the date, to a certain sum, nearly equal to the interest of the money, was found a proper wadset so as to entitle to a vote.

*Fol. Dic. v. 3. p. 416.*

\* \* \* This case is No 8. p. 2439, *voce* COMMISSIONERS of SUPPLY.

No 127.

the reserver is entitled to continue upon the roll during the currency of the legal; and even after it is expired, the adjudger cannot be admitted until he obtain possession.

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