

No 228.

and other objections; and as it was apprehended that the claimants would not rest satisfied with the judgment of the freeholders, and might object that the freeholders were incompetent to try the question, whether the sasines were properly registered or not, the pursuers brought a new action of declarator in this Court against the claimants, upon the acts of Parliament 1693 and 1696, with regard to the registration of sasines, and with the same conclusions as before, at least in so far as respected the defenders being entitled to be enrolled as at Michaelmas 1773.

The Court, by an interlocutor, June 17. 1774, 'sustained the pursuers title to insist in this action, but superseded determining the merits of the cause, till the proof in the case of Cromarty was laid before them.' And thereafter, (July 8. 1774), upon advising mutual memorials, and abstract of the proof in the case of Cromarty, 'in respect of the practice, which has been proved, in that case, to have prevailed in many counties in Scotland, and of the great and general mischief that might insue, if the objections now pleaded were sustained, repelled the objection to the registration of the sasines in question, and assoilzied the defenders from the present action.' See APPENDIX.

Act. *Macquenn, Hay Campbell, J. Boswell.* Alt. *Dean of Faculty.* Clerk, *Tait.*
Fol. Dic. v. 3. p. 430. Fac. Col. No 124. p. 334.

1777. June 17. SIR ROBERT ABERCROMBY *against* ALEWOOD and Others.

No 229.

WHEN an objection is palpable, and can be established under his own or his author's hand, without any farther investigation, they hold it competent to reject the claim. Thus, several qualifications, created by Earl Fife on certain fishings in the river Doveran, were rejected, first by the freeholders, and afterwards by the Court of Session, in respect that it appeared, from a deed under the late Earl's hand, that these fishings were held of the royal burgh of Banff, and not of the Crown. See APPENDIX. See No 110. p. 8687.

A similar judgment was pronounced in the course of the same session, 1777, Alexander Pierie *contra* Hay of Mordington, see APPENDIX.

Fol. Dic. v. 3. p. 431. Wight, p. 223.

1779. February 17. JOHN BURN *against* WILLIAM ADAM.

No 230.

Freeholders have no right to call for the warrant of the charter on which the infestment proceeds, or to object that

AT the Michaelmas head court for the county of Kinross 1778, John Burn claimed to be enrolled as a freeholder on the following titles; *1mo*, Charter of sale and resignation under the great seal of the lands and barony of Kinross, and others, in favour of George Græme, Esq.; *2do*, A contract of wadset, by which Mr Græme disposed to the claimant certain parts of the lands contained in the charter, and conveyed the said charter and precept of sasine to him, so