

1790. *February 2.* SIR WILLIAM DUNBAR *against* SIR JAMES SINCLAIR.

SIR William Dunbar and others gave in a summary complaint against a judgment of the freeholders of Caithness, for having refused to strike Sir James Sinclair off the roll, though he had succeeded to the peerage of Caithness. THE LORDS found the complaint competent, and allowed the complainers to bring proof of their allegation.

No 248.

Fol. Dic. v. 3. p. 433. Fac. Col.

* * * This case is No 108. p. 7395. *voce* JURISDICTION.

1791. *March 3.*

SIR ALEXANDER CAMPBELL, Baronet, *against* DAVID BALLINGALL.

AT the meeting for electing a Member of Parliament in the county of Stirling, on 6th July 1790, David Ballingall, who for many years had been enrolled as a freeholder, was present.

At this time John Johnston, one of the freeholders, proposed that several questions should be put to Mr Ballingall, tending to shew that the titles on which his enrolment was founded were nominal, and had never been followed with possession.

Mr Ballingall refused to answer these questions; but declared his readiness to take the trust-oath. Mr Johnston then proposed, (as the minutes of election bear,) 'That as Mr Ballingall refused to answer, he should be held as confessed, and ordered to be struck off the roll of freeholders; and protested, that his oath at any future period should be void, and that he ought to be expunged from the roll of freeholders.'

The freeholders did not proceed to vote on the merits of those objections; and the minutes of election respecting Mr Ballingall only farther mention, that 'the oath of trust and possession having been tendered to the said David Ballingall, the same was taken by him.'

A petition and complaint was afterwards preferred to the Court of Session, by Sir Alexander Campbell, one of the freeholders, praying that Mr Ballingall's name should be expunged from the roll.

In bar of this complaint, it was stated, That such an application was only competent in three cases; *1mo*, On a refusal to admit a claimant; *2do*, On an improper admission; and, *3tio*, On a refusal to expunge; but that the case then before the Court was dissimilar from all these, the freeholders having given no decision on the question, Whether Mr Ballingall should be struck off the roll or not?

No 249.

A complaint received for not expunging the name of a freeholder, though no previous decision had been given in the freeholders' court on the point.