

1745. *January 19.* FREEHOLDERS OF LANARK *against* HAMILTON.

**No 11.**

A retour where the old extent is not distinct from the feu-duty, does not give a qualification.

HAMILTON of Wishaw produced a retour of his lands, wherein the old extent was not distinct from the feu-duty, and which bore the lands to be *ecclesiastica* :

It was found not to entitle him to a vote.

Hamilton of \_\_\_\_\_, had, in his own right, lands valued at L. 340, and had married one of three heirs-portioners, who had been infeft in lands valued at L. 73, and the two other sisters being dead, his wife was their apparent heir.

THE LORDS found he might join his wife's interest with his own to make up his valuation, but could not vote on her right of apparenacy.

*Fel. Dic. v. 3. p. 405. D. Falconer, v. 1. p. 48.*

1745. *February 5.*

COLQUHOUN of LUSS *against* The VOTERS of the SHIRE of DUMBARTON.

**No 12.**

Lands contained in one retour valued *in cumulo* in the *valent* clause, but having their separate values expressed in the descriptive, and the total agreeing, entitle the several heritors to vote.

The objection that the principal retour was not produced, but only an extract from Chancery, was repelled.

SEVERAL freeholders of the shire of Dumbarton, claimed votes in the election of a Member of Parliament, on their estates being retoured to forty shilling lands, in a retour of the dukedom of Lennox and barony of Kilmarnock, 25th April 1662.

*Objected*, That the principal retour did not appear, and there was only a copy of it in the Chancery books.

*Answered*, This copy in the books of Chancery is what in law is called a retour, and makes evidence in all Courts.

THE LORDS repelled the objection.

*Objected* to the heritors of the dukedom, That their lands, which are severally mentioned as of such a value in the descriptive clause, are only *in cumulo* valued in the *valent*, which, besides, exceeds the particular values in L1 : 10 : 8d., and so not agreeing with, cannot be supported by them.

*Answered* ; The difference is so small, as to be obviously only a mistake in the calculation.

THE LORDS sustained the retour.

*Objected* to the heritors of the barony, That the several lands mentioned in the descriptive clause, are only valued *in cumulo* ; and though these clauses agree, yet the mill and mill lands of Mewie are mentioned in both clauses without any value in the description, and make part of the *cumulo* valuation ; and if any part of this value is applicable to them, the several lands cannot be of the same value they are described.