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rolment restricted to the lands reserved, it is incumbent upon him to satisfy the meeting, by proper legal evidence, that the lands reserved are of such extent or valuation as entitles him to continue on the roll; and, consequently, that it must be competent to the freeholders to judge whether the remainder entitles him to be continued upon the roll or not; and that the same rules must take place, in supporting the legality of the restricted qualification, as would have taken place in the case of a split new enrolment; that, as supposing the freeholders to have done wrong by striking him off the roll, notwithstanding that his reserved lands amounted to a legal qualification, it must have been competent for him to have applied to this Court, by complaint, for redress of that wrong, under the authority of the above-mentioned statute; so, upon the contrary supposition of the freeholders having sustained the restricted qualification, however improperly, as sufficient to continue him upon the roll, upon the footing of that restriction, it must be equally competent to the other freeholders to sue for redress of that wrong in the same form and manner, by complaint to the Court, as would have been competent to the freeholder himself in the other case. If this were not to be allowed, the most absurd consequences would follow.

Replied, in answer to the plea that the respondent had created a jurisdiction in the freeholders, by claiming a restriction of his original title of enrolment; Though a freeholder should rise up and discover to the meeting, that he has denuded himself of one half or two thirds of his former titles, this will be no ground for turning him *de plano* off the roll, though it will very naturally lead them to enquire whether he has reserved a sufficient qualification or not; and if they find that it is insufficient, they may lodge an objection to him two months before next Michaelmas, and then bring his title, in regular form, under trial.

The judgment of the Court was as follows;

‘THE LORDS find the restricted enrolment in favour of the respondent, at Michaelmas last, was inept, and not in terms of law; but, in respect no objection was lodged upon the alteration of circumstances, in terms of the act of the 16th of the late King, they dismiss the complaint and assoilzie the respondent; reserving to the complainers still to object to the respondent’s title to continue upon the roll, as accords.’

Alt. Dean of Faculty.

Alt. Hay Campbell.

Clerk, Campbell.

Fac. Col. No 134. p. 355.

1775. December 15. Colonel ROBERT SKENE *against* JOHN ADAM.

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The omission
to lodge an
objection to
one’s author’s

AT Michaelmas last, Colonel Skene claimed to be enrolled as a freeholder in the county of Kinross, upon an unquestionable title, derived from Mr Laurence Craigie, writer to the signet, to certain lands, which made a part of the qualification on which his author stood enrolled.

When the claim came to be considered by the meeting, it was *objected* by Mr Adam, 'That the statute of the 16th of George II. ordains, that, to prevent all surprise at Michaelmas meetings, whoever intends to object to any freeholder who stands upon the roll, on account of the alteration of his circumstances, shall, at least two kalendar months before the Michaelmas meeting, leave his objections in writing with the sheriff-clerk, as aforesaid; who is thereby required, upon receipt of the foresaid objections, to indorse on the back thereof the day he received the same, &c.; and whereas no such objection has been regularly made against Mr Laurence Craigie, he cannot legally be struck off the roll; and, therefore, Colonel Skene cannot be enrolled at present, in respect another gentleman stands already enrolled upon the same lands, and, therefore, they have it not in their power to turn that gentleman off, to make way for the Colonel.'

To this objection one of the freeholders present *answered*, That, as Colonel Skene's claim and writs were lodged in due time, it is sufficient evidence that Mr Laurence Craigie is denuded of the lands for which he is enrolled, and that he desires to be struck off the roll. But it having carried, by the casting vote of the Preses of the meeting, to continue Mr Craigie on the roll, and to refuse to take under consideration Colonel Skene's claim, a complaint of this determination was preferred, *alleging*, That no instance ever occurred of a person's being kept off the roll, upon an objection so insignificant and so frivolous as the present.

'THE LORDS found, that the freeholders of the county of Kinross did wrong in refusing to enroll the complainer in the roll of freeholders of the said county; and, therefore, grant warrant to, and ordain the sheriff-clerk of the said county forthwith to add his name to the said roll.'

Act. A. Abercromby.

Alt. Crosbie.

Clerk, _____

Fac. Col. No 205. p. 150.

1780. July 20.

Major ALEXANDER DUNDAS *against* ALEXANDER FERGUSON.

A CLAIM for enrolment was presented to the meeting of freeholders of the county of Ayr, at Michaelmas 1779, in the name of Major Dundas, who was then serving with his regiment in America, but who had given no mandate or commission authorising any person to appear in his behalf on that occasion. An objection founded on these circumstances was made by Mr Ferguson to this claim; upon which the meeting refused to enroll the Major. In a complaint to the Court, offered in his name, it was

Pleaded; The claim was lodged by those who had the custody of the Major's papers. This custody implied a sufficient mandate; January 10. 1694, King *contra* Seton of Barns, *voce* PROCESS.

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qualification to continue on the roll, on account of being denuded, is no reason why the successor, producing titles, should not be enrolled in his stead.

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A mandate necessary to authorise a claim for a person residing abroad to be enrolled at a meeting of freeholders. See No 218. p. 8942.