

S E C T. III.

Powers of the Court of Freeholders.

1745. February 6.

No 219.

MONRO of Teananich *against* MACKENZIE of Cromarty.

HUCH MONRO of Teananich and others, gave in a complaint against MacKenzie of Cromarty and others, for turning them off the roll of electors of the county of Ross at Michaelmas 1744, when they were summoned before the Lords of Session, to shew cause why they ought not to be expunged in virtue of the late statute.

THE LORDS found the act to be a contempt, and decerned the complainers to be considered as standing on the roll, till the petition against them should be determined, and the defenders to pay L. 10 Sterling as the expense of the complaint.

Fel. Dic. v. 3. p. 430. D. Falconer, v. 1. p. 66.

No 220.

1745. February 26. Sir PATRICK DUNBAR *against* BUDGE of Toftingale.

A person being enroled on a superiority, which with his lands he acquired from the patron of a hospital, it was objected, that the act vesting in patrons the right of entering heirs in lands held of prebends, &c. did not extend to hospitals. No person appearing to claim the superiority, the Lords thought the objection *jus tertii* to the freeholders.

JAMES BUDGE of Toftingale standing on the roll of freeholders for the county of Caithness, an objection was made to his title, that part of the lands which made up his valuation, had been held of the hospital of St Magnus, from the patron whereof Mr Budge had acquired the patronage, in so far as concerned these lands, as he had the superiority of the lands themselves, and was infest therein by charter under the Great Seal, the terms whereof were, after granting the lands : ‘ Una cum advocatione, donatione et jure patronatus hospitali tatis hospitii de Sancto Magno in Caithness, et hoc solummodo in quantum spectat, vel extendi possit ad prædict. terras, aliaque supra mentionat. quæ olim ad dictam hospitalem pertinuerunt. Quod quidem jus patronatus dicti hospitalitatis hospitii Sancti Magni, et jus superioritatis terrarum aliorumque supra script. virtute ejusdem, secundum leges et acta Parliamenti in Scotia a tempore reformationis facta et statuta, ab ante hereditarie pertinuerunt ad Georgium Sinclair de Ulbster, et per eum ejusque procuratores legitime constitutos, virtute patentium procuratorie resignationis literarum in dispositione per eum concepta contentarum, de data tertio die Januarii 1740, debite et legitime resignata fuerunt, cum omni jure et interessé, quod dict. Georgius Sinclair habuit, vel prætendere potuit, in manibus dict. domini capitalis baronis et remanentium dict. Scaccarii baronum, et potestatem et commissionem resignationis terrarum, jurium patronatus, aliorumque in Scotia de nobis ten-