

Answered, Mills were not extended, and the mill lands, consisting of two acres, probably never were, besides the several lands are repeated in the *valent*, with their values in the same manner as in the description, and then the total value *in cumulo* is given in answer to the brieve.

THE LORDS sustained the retour, and repelled all the objections.

Act. *Lockhart*.

Alt. *H. Home & J. Campbell, jun.*

Reporter, *Kilkerran*.

Fol. Dic. v. 3. p. 403. D. Falconer, v. I. p. 6F.

No 12.

1745. February 22. SIR MICHAEL STEWART *against* HUGH CRAWFORD.

HUGH CRAWFORD, writer in Edinburgh, standing on the roll of electors for the shire of Renfrew, an objection was made to his title, which the Lord Ordinary, before whom the complaint came, on advice with the Lords, sustained, on which he gave in a reclaiming petition, giving this account of the titles whereon he claimed to vote.

He is infeft in the fifty shilling land of Brown's Calderhaugh, the extent whereof appears by a charter of Queen Mary, 6th September 1559, as per register of charters, book 21. numb. 474, to John Brown of Coultermains.

Richard Brown of Coultermains was served heir in these lands to John, 21st June 1712; and, though his retour is lost, there remains an authentic document of it in the *responde* books in Chancery, book 3. where it is entered, as all other retours are, and bears the lands to be a fifty shilling land, which is supported by the tax roll of the shire, dated 20th January 1613, lying amongst the records in the Laigh Parliament House.

Further, Alexander Glen of Bar was, 23d January 1610, served heir to his brother in the two and a half merk land of Auchincreech, and fifty shilling land of Calderhaugh, ten shilling land of Langlee, ten shilling land of Cruicks and Johnshill, and ten shilling land of Knockbarmock; which is precisely the same description with the charter founded on, the glens holding feu of Brown of Coultermains; and this retour is recorded in Chancery, book 4. fol. 324; and in the descriptive clause, values all these lands at L. 4:3:4d. which agrees exactly with the other documents; but the *valent* retours them to be worth L. 22:16:8d. and 85 stone of cheese, viz. the feu-duty paid to Coultermains.

The petitioner *alleged*, That the meaning of the clause in the statute, enacting, That no person should be entitled to be enrolled on the old extent of his lands, unless such extent were proved by a retour prior to 16th September 1681, was, that no division since of the old extent should be sustained, and that no retour since should be held as sufficient evidence of the old extent. He *pleaded*, That retours were the lowest kind of evidence allowed by the act, but that better kind of evidence was not excluded; and frequently better evidence might be got than retours, as in this case.

No 13.

No other evidence but retours can be received of the extent of lands.

No 13.

Answered, That the statute precisely confined the evidence to retours.
THE LORDS adhered.

Act. *A. Macdowal.* Alt. *H. Home.* Reporter, *Lord Arniston.* Clerk, *Forbes.*
Fol. Dic. v. 3. p. 402. D. Falconer, v. 1. p. 84.

1745. February 22.

SIR MICHAEL STEWART *against* ARCHIBALD CAMPBELL of Ellersly.

No 14.

ARCHIBALD CAMPBELL of Ellersly, Writer to the Signet, claimed to stand upon the roll of freeholders for the shire of Renfrew, on the title of his said lands, all the old charters whereof bore them to be a five-pound-land; and a retour was produced, in which the descriptive clause also bore them to be a five-pound-land; but, in the *valent*, they were retoured to be worth one penny.

It was *urged*, That the retour was of a wadsetter, who held the lands of the reverser, for a blench-duty, with the casualties discharged; so that the Jury had only considered the burden upon the vassal, and made that the value; but the true extent appeared from the description supported by the charters.

THE LORD ORDINARY, on advice with the Lords, 'Found, that the retour founded on did not instruct the old extent of the lands, in terms of the act of Parliament; and the LORDS, on bill and answers, adhered.'

Reporter, *Lord Arniston.* Act. *A. Macdowal.* Alt. *Wallace.*
Fol. Dic. v. 3. p. 402. D. Falconer, v. 1. p. 83.

1746. June 14.

FREEHOLDERS of Linlithgowshire *against* CLELAND of Kincavel.

No 15.

Temporal lands, whereof the old extent is not distinct from the feu-duty, do not entitle to vote.

ROBERT CLELAND of Wester-Kincavel stood on the roll of freeholders for the county of Linlithgow, in virtue of his said lands, which were retoured thus:
'Et quod præfatæ terræ nunc valent, per annum, summam septem librarum sex solidorum et octo denariorum, monetæ hujus regni Scotiæ, et tempore pacis tantum valuerunt; et quod eadem terræ de S. D. N. Rege et suis successoribus in feudifirma et hereditate in perpetuum tenentur, pro annua solutione septem librarum monetæ prædict. apud festa Pentecostes, et Sancti Martini in hyeme particulariter, idque tanquam proportionalis partis summæ viginti sex librarum, quæ est feudifirma pro integris terris de Kinkavell persoluta, secundum antiqua et originaria dict. terrarum infeofamenta, nomine feudifirmæ tantum, una cum summa sex solidorum et octo denariorum, in augmentatione prædictis septem bovatis terrarum, plus quam unquam eadem pars et portio antea persolverit.'