

1745. July 18. FREEHOLDERS OF ROSS-SHIRE *against* MONRO of Culcainn.

No 125.

A wadset found to be proper, so as to entitle to vote, though it contained no power to the wadsetter to call for his money.

MONRO of Culcainn stood upon the roll of freeholders for the county of Ross, in virtue of a disposition to the superiority of certain lands granted to him by Monro of Foulis his father, redeemable for 1000 merks.

*Objected* to his title; That this was an elusory right created to raise up a vote, and besides could give no vote, as being an infeftment in security for money, and not a proper wadset; for there was no power in the disponee to require the money. A wadset was a pledge; and here there was no debt which a pledge could secure, and so the right being no wadset at all, could not be called a proper or improper one.

THE LORD ORDINARY, having advised with the Lords, repelled the objection; and, on a petition, the LORDS adhered.

*Pet. W. Grant.*

*Fol. Dic. v. 3. p. 416. D. Falconer, v. 1. p. 122.*

\*\*\* A similar decision was pronounced, 17th January 1755, Galbraith *against* Cunningham, No 51. p. 8644.

1747. June 24.

FREEHOLDERS of the Shire of WIGTON *against* STEWART of Barvennan and HAY of Balcarry.

No 126.

Lands held by a man, excluding his heirs and assignees to return on his death to his author, found to entitle to vote.

COLONEL JAMES STEWART of Barvennan was infeft in those lands, ' tam in feodo quam in vitali redditu (heredes suos et assignatos excludendo) quo morte deficiente Comiti de Galloway vel Alexandro domino Gairlies, ejusque heredibus et successoribus redire et assignatis quibuscunque,' with power to him to burden the estate to the extent of L. 400 Sterling; and Captain Alexander Hay of Balcarry was infeft in the same manner, with a return to Sir Thomas Hay of Park, but without any power of burdening.

*Objected* to these titles to stand on the roll of freeholders for the shire of Wigton, that they were not liferents, and the fees were nominal and fictitious.

THE LORDS repelled the objection.

*Act. A. Macdowal*

*Alt. Lockhart.*

*Fol. Dic. v. 3. p. 415. D. Falconer, No 192. p. 257*

1748. June 7. HOME-CAMPBELL and KER *against* HOMES of MANDERSTON.

No 127.

Notwithstanding an adjudication,

SIR JOHN HOME elder and James Home younger of Manderston stood on the roll of freeholders for the shire of Berwick, and no objection was made to