

No 122.

The Court were unanimously of opinion, that the formula prescribed by 1707 was still in force, and that it might be put to a person suspected of being a papist, previous to his enrolment. This had not been the course followed here, but it had been tendered, and refused, the first time he came to exercise the privilege of election. Consequently, he had no right to continue on the roll, although he had stood in it for more than four months, as a great distinction occurs between objections arising from the title of his lands, and from a personal disqualification, which cannot be known till an opportunity arises for investigating it. An objection to a title appears *ex facie*, and must therefore be challenged within four months from the enrolment; but a personal disability can only be objected to when it is discovered. A Protestant may become a Roman catholic; he may be required to take the formula, and if he refuse he can have no right to continue on the roll, although he may have been enrolled for years.

The Court (17th February 1803) sustained the objection to the respondent's standing upon the roll of freeholders.

To which judgment they adhered, by refusing a reclaiming petition, without answers, (10th March 1803).

For Ferguson, *H. Erskine, M. Ross, W. Erskine, Campbell, jun.* Agent, *Alex. Young, W. S.*
 For Glendonwyne, *Solicitor-General Blair, Hay, Cathcart, Walker.* Agent, *W. Walker.*
 Clerk, *Menzies.*

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No 123.

A subdistributor of stamps not disqualified from voting at elections.

1803. February 25. GOODSIR against HUTTON.

THE statute 22d Geo. III. c. 41. was enacted for the better securing the freedom of elections of Members to serve in Parliament, by disabling certain officers employed in the collection or management of his Majesty's revenue from giving their votes at such elections. This enactment was not held to apply to the case of John Hutton, writer in Kinghorn, who received a quantity of stamps from the head distributor at Cupar, with which he afterwards supplied the neighbourhood; for he had no connection with, and was not under the controul of the Commissioners of the Stamp-office; he was not appointed by them; nor was he an immediate servant of government; the design of the statute being no other than to diminish the influence of government in elections. It was also interpreted in this way in England; *Luders on Elections*, vol. 2. p. 532, 601.; *Fraser's Election Cases*, vol. 1. p. 164.

Act. *Gillies.* Agent, *Jo. Syme, W. S.* Alt. *W. Erskine.*
 Agent, *Cha. Anderson.* Clerk, *Pringle.*

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Fac. Col. No 89. p. 197.