

No. 6. of Fife, leaves the disponee and his heirs at perfect liberty both as to the time of the sale and the consideration for which it is to be made; and the clause of return is an event which probably never will take place.

The Court, upon the whole circumstances of the case, thought the qualification nominal, and therefore dismissed the complaint.

Act. *Gordon.* Agent, *R. Dundas, W. S.* Alt. *Monypenny.* Agent, *Geo. Stuart, W. S.*  
Clerk, *Pringle.*

F.

*Fac. Coll. No. 124. p. 275.*

1803 December 24. MAXWELL against MACDOWALL.

No. 7.  
Nominal and  
fictitious  
qualification.

ALEXANDER MAXWELL, younger of Terraughty, purchased from the Earl of Galloway a freehold qualification in the county of Wigton for £110. The disposition was to the purchaser, and the heirs-male of his body; whom failing, to the Earl, and the heirs-male of tailzie and provision in the Lordship and estate of Galloway.

The disposition had been made out by the Earl's man of business, and Maxwell had paid nothing for doing so.

Maxwell claimed to be enrolled at the meeting held for the purpose of electing a knight of the shire, 27th June 1802; but the freeholders rejected the claim.

On advising a petition and complaint, with answers, replies and duplies, the Court confirmed this judgment, as, under all the circumstances of the case, this qualification seemed to be entirely nominal and fictitious, and very similar to that of Souter, 26th November 1803, No. 6. APPENDIX, *supra*.

As the election-law, particularly the statute 1681, confers the right of voting upon a person who is infeft in a real estate in liferent, as much as upon one who has a real estate in fee, there is no reason why the former should not be allowed to exercise his franchise as well as the latter, if the estate be a solid and substantial one; but, in the same way, if it be a nominal and fictitious one, the person who is infeft in the shadow of a fee, can no more be entitled to vote than he who is possessed of a liferent of the same description.

Act. *A. Campbell, senior, A. Campbell, junior.* Agent, *A. Young, W. S.* Alt. *Hay, Gillies.*  
Agent, *T. Adair, C. S.* Clerk, *Menzies.*

F.

*Fac. Coll. No. 132. p. 291.*

1804. June 19. FRASER against LORD WOODHOUSELEE.

No. 8.  
Upon the  
death of an

THE late Mr. Fraser of Balnain executed an entail of his estate in Invernesshire, by which his daughter, Mrs. Fraser Tytler, succeeded, upon his death, as