

“sequently, does not hold the estate for his own use and benefit.” And to apply this to the present case, it may be true that Mr Burnet’s estate affords him little rent or profit; but then it is likewise true, that he enjoys all the rents and profits which arise out of that estate, and that he is not bound to account for these rents and profits to any one, nor stands under any obligation to reconvey the estate. So that it cannot be qualified in terms of the statute, that his title is nominal or fictitious; though it may be true, that the principal or only intendment of the transaction was to entitle him to a vote.

“THE LORDS first repelled, and afterwards sustained, the objection.”

*Rem. Dec. v. 2. No. 75. p. 116.*

No 135.

1746. July 30.

FREEHOLDERS OF DUMFRIES-SHIRE *against* FERGUSON of Craigdarroch.

FERGUSON of Craigdarroch stood on the roll of freeholders of Dumfries, as being superior of the two-and-a-half merk land of Dunreggan.

*Objected*, That William Fergusson of Craigdarroch had, *anno* 1627, disposed these lands, to be held of himself feu for 16 merks Scots, for which feu-duty he, at the same time, granted a perpetual discharge, obliging himself to grant termly discharges as it fell due, if needful; so that he was only nominally superior.

*Answered*, That he retained still right to the other casualties of superiority.

*Observed* on the Bench, That this right could not be at that time created fictitiously to give a vote, but the intent was plain; the lands holding ward, could not be feued out, but at a competent avail; and, therefore, to salve this, a discharge was granted of the feu-duty contained in the charter.

THE LORDS repelled the objection.

*Fol. Dic. v. 3. p. 417. D. Falconer, v. 1. No. 138. p. 173.*

No 136.

A superior, although he had granted a perpetual discharge of the feu-duty, found entitled to vote.

1755. January 9.

THOMAS FORRESTER of Dunnovan, and Other FREEHOLDERS of Stirlingshire, *against* ANDREW FLETCHER, Esq; Younger of Salton, Lieutenant JAMES CAMPBELL, and DAVID GOURLY of Keppdarroch.

ANDREW FLETCHER, Younger of Salton, Lieutenant James Campbell, and David Gourly, were, at the meeting for electing a Member to serve in Parliament for the county of Stirling, on the 17th of May 1754, enrolled in the roll of freeholders.

No 137.

A right of superiority of lands found to entitle