

When the claim came to be considered by the meeting, it was *objected* by Mr Adam, 'That the statute of the 16th of George II. ordains, that, to prevent all surprise at Michaelmas meetings, whoever intends to object to any freeholder who stands upon the roll, on account of the alteration of his circumstances, shall, at least two kalendar months before the Michaelmas meeting, leave his objections in writing with the sheriff-clerk, as aforesaid; who is thereby required, upon receipt of the foresaid objections, to indorse on the back thereof the day he received the same, &c.; and whereas no such objection has been regularly made against Mr Laurence Craigie, he cannot legally be struck off the roll; and, therefore, Colonel Skene cannot be enrolled at present, in respect another gentleman stands already enrolled upon the same lands, and, therefore, they have it not in their power to turn that gentleman off, to make way for the Colonel.'

To this objection one of the freeholders present *answered*, That, as Colonel Skene's claim and writs were lodged in due time, it is sufficient evidence that Mr Laurence Craigie is denuded of the lands for which he is enrolled, and that he desires to be struck off the roll. But it having carried, by the casting vote of the Preses of the meeting, to continue Mr Craigie on the roll, and to refuse to take under consideration Colonel Skene's claim, a complaint of this determination was preferred, *alleging*, That no instance ever occurred of a person's being kept off the roll, upon an objection so insignificant and so frivolous as the present.

'THE LORDS found, that the freeholders of the county of Kinross did wrong in refusing to enroll the complainer in the roll of freeholders of the said county; and, therefore, grant warrant to, and ordain the sheriff-clerk of the said county forthwith to add his name to the said roll.'

Act. A. Abercromby.

Alt. Crosbie.

Clerk, \_\_\_\_\_

Fac. Col. No 205. p. 150.

1780. July 20.

Major ALEXANDER DUNDAS *against* ALEXANDER FERGUSON.

A CLAIM for enrolment was presented to the meeting of freeholders of the county of Ayr, at Michaelmas 1779, in the name of Major Dundas, who was then serving with his regiment in America, but who had given no mandate or commission authorising any person to appear in his behalf on that occasion. An objection founded on these circumstances was made by Mr Ferguson to this claim; upon which the meeting refused to enroll the Major. In a complaint to the Court, offered in his name, it was

*Pleaded*; The claim was lodged by those who had the custody of the Major's papers. This custody implied a sufficient mandate; January 10. 1694, King *contra* Seton of Barns, *voce* PROCESS.

No 210.

qualification to continue on the roll, on account of being denuded, is no reason why the successor, producing titles, should not be enrolled in his stead.

No 211.

A mandate necessary to authorise a claim for a person residing abroad to be enrolled at a meeting of freeholders. See No 218. p. 8942.

No 211.

*Answered*; In all courts of law it is required, that an express mandate from such suitors or claimants as are out of the kingdom should be produced by those who act in their name; Bankton, b. 4. tit. 3. § 25. 26.; February 3. 1681, Stewart, No 17. p. 353. Nor does this requisite seem less necessary in a meeting of freeholders than in other courts.

‘THE LORDS found no claim properly entered entitling to be enrolled.’

Act. G. Fergusson.

Alt. Alex. Wight.

Clerk, Mackenzie

S.

Fol. Dic. v. 3. p. 429. Fac. Col. No 120. p. 222.

1781. January 17.

Sir JOHN SCOTT of Ancrum, Baronet, and PATRICK KERR of Abbotrule, Esq.  
*against* Sir JOHN DALRYMPLE of Cowslaid, Baronet.

No 212.

The objections to a claim, that there had been a want of form (not essential) in taking the sasine, that there was a confusion in the description of the lands, and that the writer of the disposition was not properly designed, were repelled.

SIR John Dalrymple claimed to be enrolled at the time mentioned in No 97. p. 8681.; and, as his qualification stood upon part of the same lands with Sir Gilbert Elliot's, the same objection was stated upon the decret of division, and reference was made to the arguments pleaded for and against Sir Gilbert Elliot. But the three following objections were also stated.

In the *first* place, There is a nullity in Sir John Dalrymple's sasine. It bears to have proceeded upon the precept contained in the charter from the crown in favour of Sir Gilbert Elliot; and, although it mentions that a disposition and assignation was granted by Sir Gilbert Elliot, in Sir John Dalrymple's favour, which might, if properly used, have authorised infesting Sir John under the crown-charter; yet the instrument of sasine does not mention that this disposition and assignation was received by the bailie from the attorney, or that it was delivered to the notary, and, by him, or any other person, openly read and published to the witnesses; or that, after such publication, sasine was given to Sir John, in virtue of the assignation. The sasine, therefore, was given, not only contrary to the uniform practice in all such cases, but contrary to the clearest principles of law and common sense; for it was, in fact, the same as a sasine without any warrant whatever. In order to shew the practice, and make the imperfection of the present sasine appear more evident, a copy was subjoined to the petition, with the omissions printed in Italics.

In the *second* place, The lands of Kainside-park and Kaimsmuir-park, fall under the lot of Sir John Dalrymple's qualification, but are neither in his disposition nor sasine.

And, *lastly*, The writer of the disposition, by Sir Gilbert Elliot to Sir John Dalrymple, is not designed, and, consequently, the disposition itself is absolutely null and void, by the acts 1593, c. 175. and 1681, c. 5. The writer is called John Scott, clerk to the signet; but there is no such person in existence; so that, if the writer's name be truly John Scott, yet surely his designation is false, which comes to the same thing as no designation at all.