

The answer made was, ' That Mr Fergusson's request cannot be complied with, because Mr Campbell has not refused to take the trust-oath. All the law requires is, that Mr Campbell take that oath before he proceed to vote; and, when he comes to vote, he, no doubt, will take the oath mentioned. But, till then, he is not bound to remain in court longer than he pleases; nor can he be struck off the roll till he actually refuse to swear.'

The meeting having, ' by a majority of voices, repelled the objection, and refused to strike the said Mungo Campbell off the roll,' Mr Fergusson protested, and afterwards brought the judgment of the freeholders under review, by petition and complaint.

At advising, the Court required Mr Campbell to say positively, whether or not he was present when the oath was tendered? Mr Campbell, by his counsel, admitted that he was present; and the COURT

Found, " That the respondent having wilfully absented himself, after the trust-oath was desired to be put, is to be held as refusing to take the oath;" and therefore granted warrant for expunging him, and found him liable in expenses.

Act. *Nairne.*Alt. *Wight, and J. Boswell.*Clerk, *Tait.**L.**Fol. Dic. v. 3. p. 421. Fac. Col. No 8. p. 16.*1784. *July 7.*BRODIE *against* URQUHART.

A PERSON, after voting for preses and clerk, went out of the court-room to an antichamber, where he waited till he heard his name called to give his vote for the Member to be elected, and instantly appearing, gave his vote. There being no opportunity previously to put the trust-oath, it was tendered to him immediately after giving his vote, when he refused it, as being out of time. The freeholders having sustained the vote, the LORDS found they had done wrong, and ordered the person's name to be expunged from the roll. See APPENDIX.

*Fol. Dic. v. 3. p. 421.*1790. *January.* FREEHOLDERS OF CAITHNESS *against* ROSE.

MR ROSE having voted in the choice of preses and clerk, and been chosen clerk himself, the trust-oath was put to him, but refused by him, on the ground, that being elected clerk, he had resolved not to vote in any question that should be agitated at the meeting. The freeholders refusing to strike him off the roll, the Court of Session reversed their judgment. See APPENDIX.

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found this equivalent to a refusal to take the oath, and ordered him to be expunged from the roll.

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