

out what was meant. It is therefore clear that sasine may be taken at the Manor Place for the whole estate, and also for every or any part thereof; 2. That the qualification was neither nominal nor fictitious; 3. That the valuation of the lands was legally ascertained by a decret of the Commissioners of Supply; and, 4. That the objection as to the teinds was irrelevant, as had been determined in several cases. Although his titles gave him no right to the lands *and the teinds*, yet they gave him right to the lands, with the parts, pendicles, and pertinents, and all the charters granted to the vassals contain both lands and teinds, and the vassals have always been in possession of both for time past memory. It will not do therefore to attempt, as is here done, to separate the teind from the land, and in this way reduce the valuation below the requisite qualification.

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The Court of Freeholders sustained the objections; and, on complaint to the Court of Session, the Court pronounced this judgment:—"repel the objection to the complainer's sasine; and also repel the objection to the valuation of the complainer's lands."

Dec. 9, 1790.

Against this interlocutor the present appeal was brought.

After hearing counsel, it was

Ordered and adjudged that the interlocutor be affirmed.

For Appellant, *Alex. Wight, Sylv. Douglas.*

For Respondent, *George Ferguson, J. Campbell.*

NOTE.—Another case, *Muirhead v. George Edmonstone*, was determined in the same manner. Also, *Muirhead v. Johnstone of Alva*, determined a few days thereafter.

PETER SPEIRS, Esq.,	.	.	<i>Appellant;</i>
SIR ALEXANDER CAMPBELL, Bart.,	.	.	<i>Respondent.</i>

House of Lords, 5th March 1791.

FREEHOLD QUALIFICATION — TRUST DEED — APPARENT HEIR'S RIGHTS.—Held, although a deceased father had left his whole estate to trustees, who were infest, that his heir was still entitled to be enrolled as possessing a good freehold qualification,—the possession of the trustees being for his behoof, and their possession being considered as his.

The respondent having claimed to be enrolled as a free-

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holder for the county of Stirling, in order to vote for the election of a member of parliament; it was objected to his claim, that his father having conveyed his estate to trustees for the purposes mentioned in the trust deed, he was entirely divested. To this objection it was answered; That the trustees named by his father had no possession but for his behoof, and that their possession under their base infestment was to be accounted his possession: that it was a proposition founded in the words of the act 1681, c. 20, that a trust deed, though granted for the behoof of creditors, does not deprive the *truster* of his freehold qualification, that act having expressly declared, “that no person infest for relief or payment of sums shall have vote, but the granters of the said rights, their *heirs* and *successors*.” That so standing the case, the respondent would have been entitled to be enrolled, although the trustees had been publicly infest upon a charter of resignation from the crown; and, *multo magis*, must be so entitled, when it was considered that these trustees were only base infest. It was also objected, that the valuation of the lands on which he claimed being below £400, he had no right to be enrolled. It was answered, that the valuation of the Commissioners of Supply was evidence to the contrary, and it must stand good until reduced.

The Court of Freeholders rejected his claim to be put on the roll; and he complained to the Court of Session. The Dec. 14, 1790. Court of Session found, “that the meeting of freeholders did wrong in refusing to put the complainer upon the roll of electors for the county of Stirling; and therefore ordain his name to be inserted in the roll in its proper place.”*

Against this interlocutor the present appeal was brought to the House of Lords.

After hearing counsel, it was

Ordered and adjudged that the interlocutor be affirmed.

For Appellant, *Alex. Wight, Sylv. Douglas.*

For Respondent, *Geo. Ferguson, J. Campbell.*

* Opinions of the Judges:

LORD PRESIDENT CAMPBELL.—“There are *two objections*; 1st. Title; and, 2d. Valuation.

“As to the first, no want of possession. It is a lucrative succession, though under entail and trust. Sir Alexander represents his father—lives at Gargunnoch, and receives from the trustees that por-