

1815.

ROBERTSON
v.
THE DUKE OF
ATHOLL, & C.

(Clunes and Strathgroy.)

Major-General WM. ROBERTSON of Lude, . *Appellant*;
JOHN, DUKE OF ATHOLL, and JOHN STEWART, *Respondents*.

House of Lords, 10th May 1815.

TITLE TO EXCLUDE—PRESCRIPTION.—A Crown charter and sasine following thereon held a sufficient title to exclude an action of reduction, improbation, and declarator of lands which had belonged at one time to the appellant's predecessor.

A reduction, improbation, and declarator was brought by the appellant against the respondents, to have it found that the lands of Clunes, and the lands of Strathgroy, which had belonged to the appellant's predecessor, and which were now possessed by the respondents, belonged to the appellant, and calling for the production of all writings, charters, and titles, upon which the respondents founded their right to the same.

The Duke of Atholl alone appeared. He satisfied the production, and produced a Crown charter, dated March 6, 1691, and instrument of sasine thereon, and upon this he pleaded a prescriptive title, so as to exclude the present action.

June 18, 1805. The Lord Ordinary, of this date, "Finds the defender has produced sufficient evidence to exclude, therefore dismisses the process, and decerns;" and the Court, upon two several reclaiming petitions, adhered with expenses.

Feb. 16, 1809.
May 17, 1809.

On appeal to the House of Lords these interlocutors were affirmed.

For the Appellant, *Sir Saml. Romilly, J. Haggart, D. Macfarlane.*

For the Respondents, *William Adam, Ar. Fletcher.*

NOTE.—Another appeal, brought by the same party, against the Duke in regard to the lands of Inchmagrenoch, was decided at the same time, involving the same point of law (title to exclude).