

1680. *December 7.* The ROYAL FISHING COMPANY *against* HALTON.

HIS Royal Highness the Duke of York being present, the members of the Royal Fishing Company represented, that his Majesty, by his 5000 pounds sterling of capital or stock, having fifty votes, each 100 pounds giving a vote, and delegating the whole fifty votes to one person, *viz.* my Lord Halton, he engrossed the whole administration of the society into that one person's hands; which made the affair suffer exceedingly in its true interest; for, the fifty votes being the plurality, Halton carried these many years what he pleased; so that they needed only ask his suffrage, which made it resolve in a monopoly.

The Lords (contrary to the Duke of York's private opinion,) took the courage to show their justice and decide against the King; and found, by the contract of copartnery, one proxy could not have all his votes; (though I think it was and is yet lawful to vote by proxies:) but if his Majesty pleased to dispose on and parcel out his votes to fifty several persons, they would each of them have a vote; as my Lord Tweeddale had assigned his son Yester to 100 pounds of his, and so given him also a vote. For Sir G. Lockhart urged that *plus vident oculi quam oculus*; and fifty persons would consult more rationally, and fall upon better expedients for the good of the whole society, than any one man. This touched Halton.

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1680. *December 10.* The EARL of HOME *against* His VASSALS.

IN the Earl of Home's reduction and improbation against his vassals; ALLEGED for some of them,—I cannot take a term to produce any writs but those granted by yourself, seeing you produce nothing but a seasine in your own person which does not proceed upon a retour, (for that would also instruct that your predecessor was infeft,) but upon an adjudication led against yourself, as lawfully charged to enter heir, by Sir Andrew Ramsay of Abbotshall, and now returned in your own person.

This being reported, the Lords found the defence relevant; and that, by virtue of his title in process, the defenders were not obliged to produce any older rights than such as were granted by himself; (and if they had none such, then the certification would do them no hurt;) unless he would produce charters, retours, and seasines standing in his author's and predecessor's persons; in which case, the defenders behoved to produce all posterior rights, unless they excluded him by an older right.

But if it once appear, by their own production, that he is their superior, then he will force them to produce to him all their rights.

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1679 and 1680. JOHN ELPHINSTON and the MASTER of BALMERINO *against* The EARL of LOTHIAN.

1679. *January 24.*—IN the action John Elphinston and the Master of