

1773. *March 10.*

JAMES GORDON of Badenscoth *against* General JAMES ABERCROMBIE of Glassoch, and Others.

**No 252.**

Where the judgment of court of freeholders refusing a claim enrolment, on titles that were laid before them, and objected to, is brought under review of this Court; and an additional objection to the title is newly made here, it is competent to receive evidence, in order to remove that objection.

AT Michaelmas 1772, Mr Gordon having claimed to be enrolled as a freeholder in the county of Banff; diverse objections were made to his title, and the majority of the meeting rejected his claim.

Mr Gordon having presented a complaint against this refusal, in the answers whereto, besides recapitulating the former objections, an additional one to his title was mentioned; he *insisted*, That, as this objection had not been stated in the meeting of freeholders, he was entitled to produce new evidence in support of his claim, which he offered to do.

To this the respondents *objected*, on the incompetency of admitting new evidence in the review-court, to overturn the judgment of the original one; referring to the argument maintained by them in the case of Gordon of Whitley, No 260. p. 8875.

'THE LORDS repelled' the objections made to the complainer's titles; but, before answer to the objections made in the answers, that the Castletown of Blairfindie, and Easter Blairfindie, are separate tenements, allowed the complainer to prove, that the lands of Easter Blairfindie are the same with the lands called the Castletown of Blairfindie.' And, upon advising the proof adduced, the COURT found this point proved; and, on the whole, found, that the freeholders did wrong in refusing to enroll the complainer; and, therefore, granted warrant to add his name to the roll.

*Act. Sol. General, Cosmo Gordon. Alt. Elphinstone, J. Boswell. Clerk, Pringle.*

*Fac. Col. No 67. p. 165.*

1780. *February 29.*

— *against* EDMONSTONE.

**No 253.**

SIR Archibald Edmonstone of Duntreath having obtained a charter of certain lands in Dumbartonshire, conveyed them, in September 1773, to Stewart of Fenwick in liferent, and to Archibald Edmonstone his own son in fee, and by the conveyance he assigned to them the precept of sasine in the charter, which still remained unexecuted. Both fiar and liferenter were accordingly infeft, and at Michaelmas 1774 the latter was enrolled a freeholder. The fiar was not then of age. He, however, claimed to be enrolled at Michaelmas 1779, and produced the charter in favour of his father Sir Archibald, together with his own sasine, and a regular certificate that the lands were of the requisite valuation; he neglected, however, to produce the conveyance from his father to Mr Stewart in liferent, and to himself in fee. The want of this disposition was accordingly made the ground of an objection to his being enrolled; but the