

1768. *February 18.*M'LEOD of Cadboll *against* Ross of Prestonhall and Others.

No 170.

EVERY legal objection to the infestment is fatal to the enrolment. The instrument of sasine upon a disposition of three several subjects, bearing delivery of infestment of two of them only, omitting the third, the disponees were ordered to be struck off the roll, though the claim of '*acta erant hæc,*' &c. specified the whole subjects; from whence it was presumeable, that infestment had actually been taken upon all the three, and that the defect arose merely from an omission in extending the instrument. See APPENDIX.

*Fol. Dic. v. 3. p. 424.*1767. *December 19. & 1768. November 15.*DAVID DUNDAS *against* FREEHOLDERS OF LINLITHGOW.

No 171.

THE COURT of SESSION had affirmed the judgment of the freeholders, sustaining this objection to a claim of enrolment, That in virtue of a claim of dispensation similar to the above, in the case of Ogilvie, No 169, infestment had been taken at a place not within the lands conveyed.

After the judgment of the House of Lords in the case of Ogilvie, the claimant was enrolled upon a new application.

THE COURT of SESSION found that the first decree was a *res judicata*, and appointed him to be expunged; but the HOUSE of LORDS, 5th March 1770, reversed both judgments.

Fol. Dic. v. 3. p. 424.

* * Agreeably to these judgments of the House of Lords, the Court of Session decided in the following cases;—9th December 1790, Edmonston against Morehead; and 1st March 1791, Cheap against Morehead. See APPENDIX.

1781. *January.*TELFERS *against* FERRIER.

No 172.

Two persons had got their sasines recorded at six o'clock afternoon of 15th September 1779. The meeting for election was held on the 14th September 1780, but being prolonged till past mid-night, these gentlemen presented their claim, at three o'clock in the morning of the 15th. The meeting refused to enroll, as the full year had not expired. *Urged* in a complaint, That in the eye of law, *dies inceptus pro completo habetur*.—THE LORDS found the freeholders did wrong, and ordered the claimants to be added to the roll. See APPENDIX.

Fol. Dic. v. 3. p. 423.