

acted as constituent members of the meeting, having voted in the election of Preses and Clerk. No 162.

*Replied,* The present case has no affinity to that of a freeholder who has conveyed away a part of the lands which belonged to him when he was enrolled; Mr Rose's original titles, and those on which he must now claim, being essentially different. But were the cases precisely the same, it would be of no consequence; for, whatever might have been said, if, before determining with regard to the propriety of putting the oath, the freeholders had restricted Mr Rose's claim, and if, after this, Mr Rose had declared his willingness to swear, the determination of the Court of Review must be regulated by the proceedings as they actually took place.

The first judgment of the Court was, for "dismissing the complaint."

But, after advising a reclaiming petition, which was followed with answers,

THE LORDS found, "That Mr Rose having refused to take the oath of trust and possession, his name ought to have been expunged from the roll."

Act. Blair, Abercromby.

Alt. Wight, Rolland.

Clerk, Gordon.

C.

Fac. Col. No. 113. p. 213.

1796. February 26. TURNBULL against SIR DAVID CARNEGIE.

No 163.

At an election meeting, a freeholder having moved, that if any person should withdraw, after voting for Preses and Clerk, he should be held as having done so in order to avoid the trust oath; and, therefore, should be struck off the roll; a person having accordingly done so, a majority of the freeholders expunged him from the roll; and the Court of Session affirmed their decision. —See APPENDIX.

Fol. Dic. v. 3. p. 422.

1803. February 25. GORDON against HERON.

No 164.

JOHN GORDON of Kenmore was enrolled a freeholder of the stewartry of Kirkcudbright in 1789, upon his whole lands, without distinction. Their general valuation was L. 1630 Scots. He afterwards sold the lands of Hill, valued at L. 60 Scots, for the purpose of redeeming the land-tax, without applying to have the valuation disjoined, nor to have his qualification restricted to the remaining part of his estate.

At the meeting on 23d July 1803, the oath of trust and possession was tendered to Mr Gordon by Major-General Goldie, and he refused to take it, but

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The name of a freeholder, who had sold part of his estate, retaining a sufficient freehold, and who declined to take the oath of trust and possession,