

1796. *February 26.* LINDSAY CARNEGIE *against* GARDEN.

It is not necessary to specify in the claim the register in which the claimant's sasine is recorded.—See APPENDIX.

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

S E C T. VI.

Apparent Heirs.

1753. *July 3.* Colonel ABERCROMBY *against* JAMES GORDON of Ardmealie.

By a charter under the Great Seal, dated 1733, proceeding upon the resignation of Peter Gordon, the barony of Zeuchrie was granted to him in liferent, and to Archibald, his eldest son, &c. in fee; whom failing, to his second son, the defender, &c. reserving to the father full power and liberty to sell, annailzie, and dispone the said barony, either gratuitously, or for onerous causes; or to charge the same with debt; or to grant tacks thereof, for what term, and for what rent he should think proper; and to alter the course of succession, without the consent of the said Archibald, or James his son. Upon this charter, infestment followed in the same year 1733.

Archibald having deceased without issue, Peter Gordon the father executed a deed in July 1752, assigning his liferent-right, and discharging and renouncing his whole reserved powers and faculties in favour of James the defender.

At Michaelmas 1752, the defender upon these titles was enrolled in the roll of electors for the county of Banff, as apparent heir to his brother Archibald. The pursuer offered a complaint against this enrolment to the Court of Session, and *objected, imo*, That Archibald, the defender's predecessor, had not, when alive, any title to be enrolled; for that by the act 1681, Cha. II. Parl. 3. cap. 21. among the qualifications of voters (other than those claiming as apparent heirs), it is required, that they be infest in property or superiority, and in possession, &c. and by act of the 12th Ann. cap. 6. it is enacted, that no infestment, taken upon any redeemable right whatsoever, except proper wadsets, adjudications, or apprisings, allowed by act 1681, shall entitle the person so infest to vote or be elected. Now, the right of Archibald being a redeemable and merely nominal right, he, while alive, was barred by these acts from having any

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A far's right of his lands having been revocable, and merely nominal, a discharge of the power of revocation, granted after his death to his apparent heir, found not to give such heir a title to be enrolled on his apperency.