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| Sir JAMES COCKBURN of Langton, | - | <i>Appellant.</i> | 1755. |
| Sir JAMES COCKBURN of that ilk, | - | <i>Respondent.</i> | <u>COCKBURN</u> |

v.
COCKBURN.

House of Lords, 21st March 1755.

PUBLIC OFFICE.—Office of Chief Usher to the King held to be adjudgable by the creditors of the party who held the appointment, the same being hereditary and patrimonial in its nature.

BY charter of King Robert II. the appellant obtained a grant of the lands of Langton. Various other charters followed, and one in 1509 conferred on his family the hereditary office of Chief Usher to the King. No. 111.

In 1609 the lands and barony of Langton and office of King's Usher were conveyed to Sir William Cockburn and the heirs male of his body, &c. The family getting afterwards into debt, Sir James Cockburn became liable for several of those debts, in consideration of which the office was disposed to him on account of those engagements. At the same time other creditors adjudged both the estate of Langton and the office of Chief Usher.

A ranking and sale was thereafter brought of the estate, including the office, when for his interest Sir James Cockburn appeared as disponee, and opposed the sale in so far as regards the office of King's Usher. The question was whether the office of Chief Usher was adjudgable. Of this date, "on report of Lord Arniston, the Lords find that the office in question is adjudgable, and remit to the Lord Ordinary accordingly." Dec. 14, 1744.

On reclaiming petition the Lords adhered to their former interlocutor; and of this date the Lord Ordinary decerned accordingly." July 23, 1747.
November 21.

1755.

COCKBURN

v.

COCKBURN.

Against these interlocutors the present appeal was brought.

Pleaded for the Appellant:—Grants from the Crown of offices and dignities attach to the person, and continue purely beneficiary, and were not intended to be the subject of commerce. That by the principles of the feudal law, which still continued in force, these could not be alienated by the grantee without the consent of the Crown. It is also the law of Scotland that peerages and offices are not *in commercio*, but adhere to the person favoured, and are of the nature of a series of life-rents to the grantee and his descendants.

Pleaded by the Respondent:—By the law of Scotland offices heritable in their nature have been considered as feudal and patrimonial estate; and as such might be sold, alienated, have been transferred in dowry, let on lease, and are equally adjudgable at the instance of *bona fide* creditors. In a variety of instances they have been so adjudged from the proprietors by their creditors for payment of their debts, and have upon these titles been held and enjoyed by the purchasers. It is in every sense a strictly feudal and patrimonial estate conferred on the grantee and his heirs *in fee* and *heritage*; and it not uncommonly has been granted to heirs and *assigns*. All these authorities show that the office is alienable in its nature, and so adjudgable.

After hearing counsel, it was

Ordered and adjudged that the appeal be dismissed, and that the said interlocutors therein complained of be, and the same are hereby, affirmed.

For Appellant, *W. Murray, A. Hume Campbell.*
For Respondent, *C. Yorke, Andrew Pringle.*