

‘ that such beneficial interest (subject to such claim as aforesaid) June 20. 1823.
 ‘ ought to be considered as not disposed of by the said instrument,
 ‘ and as having therefore descended to the appellant, as heir of the
 ‘ said John Dalgleish, subject to any charges which may affect
 ‘ the said lands, independent of the disposition contained in the
 ‘ said instrument: And it is further ordered and adjudged, that
 ‘ the said cause be remitted back to the Court of Session in Scot-
 ‘ land, to do therein as shall be consistent with this judgment,
 ‘ and as shall be just.’

J. CHALMER,—A. MUNDELL,—Solicitors.

(*Ap. Ca. No. 19.*)

WALTER LEARMONTH and COMPANY, Appellants.—*Copley—* No. 64.
Pemberton.

JOHN LIVINGSTONE and his Factor loco Tutoris, Respondents.—
Bell—M'Neill.

Partnership.—Circumstances under which it was held, (affirming the judgment of the Court of Session,) That there was no evidence of the respondent being a partner of a company indebted to the appellants.

THIS was a question of fact depending on the import of voluminous written evidence. The appellants, Walter Learmonth and Company, brought an action against the late Alexander Livingstone, Esq. of Parkhall, (who was now represented by his son, the respondent,) concluding for payment of upwards of £12,000, being a debt due to them by the company of Learmonth and Sons, of which company they alleged that Alexander Scott Learmonth and Company formed a constituent part, and that Alexander Livingstone had been a partner of that latter company. In defence, Mr. Livingstone admitted that he was a partner of Alexander Scott Learmonth and Company, but denied that it formed a part of that of Learmonth and Company, or that he was a partner of the latter firm, and therefore contended that he could not be liable for its debts. The Lord Ordinary, on advising the evidence, assoilzied Mr. Livingstone; and Learmonth and Company having reclaimed, the Court remitted to Mr. Galloway, accountant, to examine into the facts, and report. He reported, ‘ That there is complete evidence of the concern of
 ‘ Alexander Scott Learmonth and Company being separate and
 ‘ distinct from Learmonth and Sons; that the accounts of profit
 ‘ and loss have been erroneously kept by Learmonth and Sons,
 ‘ but that the transactions of the one company can be separated

July 2. 1823.
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 2D DIVISION.
 Lord Robert-
 son.

July 2. 1823. ' from those of the other in said accounts, and that it does not
 ' appear from the productions in process that Alexander Scott
 ' Learmonth ever held himself out, or conducted himself as a
 ' partner of Learmonth and Sons, or 'drew or bore any share of
 ' the profit and loss of that concern.' The Court, on the 17th
 November 1819, thereupon adhered;* and Learmonth and Com-
 pany having appealed, the House of Lords ' ordered and ad-
 ' judged, that the interlocutors complained of be affirmed, with
 ' £350 costs.'

GATTIE, HADDEN, and GATTIE,—J. RICHARDSON,—Solicitors.

(*Ap. Ca. No. 21.*)

No. 65. ARCH. STIRLING, Esq. Appellant.—*Fullerton—Shaw Stewart.*
 CLAUD ALEXANDER, Esq. Respondent.—*Gifford—Forsyth.*

Freehold Qualification—Member of Parliament.—Circumstances under which it was held, (affirming the judgment of the Court of Session,) That a party was not entitled to be enrolled as a freeholder.

July 2. 1823.
 1ST DIVISION.

THE Earls of Glencairn were originally the proprietors of the barony of Duchal in Renfrewshire; which they feued out to the families of Porterfield, Maxwell, Cunningham, and others. The family of Porterfield, having acquired the part including the mansion-house, assumed the title of Porterfield of Duchal; while that of Maxwell, having got the part which was denominated the Overmains, took the title of Maxwell of Overmains, including several smaller pendicles. The property of Overmains was subsequently sold by the Maxwells to the family of Porterfield, and was incorporated with that of Duchal.

The Earls of Glencairn created out of these lands a number of freeholds, and among others there was exposed to sale, as affording a superiority, certain lands described in the Crown charters of the barony of Duchal as ' terras de Overmains de Corruith.' This was purchased by the late Mr. Handyside, writer to the signet, in virtue of which, and certain other lands, he claimed to be enrolled as a freeholder, and produced evidence to show that the lands of Overmains stood valued in the cess-books at £383 : 6 : 8 Scots. He was accordingly enrolled, and his claim was afterwards sustained by the Court of Session. On the death of Mr. Handyside, his son and heir was served in special to these subjects, the retour

* Not reported.