

SCOTLAND.

APPEAL FROM THE COURT OF SESSION.

JOHN SHAW STEWART, and ROBERT STEWART	}	<i>Appellants.</i>
WILLIAM M'KNIGHT CRAWFORD		
JOHN GEDDES	}	<i>Appellants.</i>
WILLIAM DONALDSON		
HUGH CRAWFORD		
HUMPHREY GRAHAM		
JOHN SHAW STEWART, and ROBERT STEWART	}	<i>Respondents.</i>
BERT STEWART		

WHERE freehold estates are conveyed under circumstances which may create a suspicion that the grantee is under an obligation, legal or honorary, to vote in the election of representatives in parliament, as the grantor shall direct—if the grantee, in the Freeholders' Court, or in the Court of Session, offers to be examined upon interrogatories, the Court has power to administer such interrogatories *ex officio*. Whether such obligation is a valid ground to exclude the grantee from the roll of freeholders—or only to reject his vote—Quære.

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An obligation, either legal or honorary, to vote as the grantor of the estate shall direct, accompanied by a correspondent obligation to re-convey the estate upon refusal to vote, according to the compact—is sufficient to invalidate the freehold and vote, and to warrant the exclusion of the claimant from the roll of freeholders. But mere political attachment, or feelings of gratitude on the one side, and expectations on the other, which do not amount to reciprocal or perfect obligation, are not disqualifications within the statute, 7 Geo. 2.

The words of the oath prescribed by that statute; “that any title, &c. is not created, in order to enable me to vote, &c.” are to be coupled in construction with those which follow: “But that the same is a real estate in me for my own use and benefit,” &c.

The penalty given to the party objecting to a vote by the

Scots Act, 1681, and 16 Geo. 2. cap. 11. is in the nature of damages; and therefore it seems that the party claiming the vote cannot object to a discovery on the ground that it may subject him to such penalty.

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IN the year 1815, the Earl of Eglinton, having taken measures to revive a number of dormant* freeholds upon his estate of Eaglesham, in the county of Renfrew, went through the necessary process to separate the property from the superiority, and to reduce the titles into such a form, that he might dispose of nine superiorities in life-rent, of value sufficient to give to each of the disponees a vote for the county.† In pursuance of

*. These freeholds are said to be dormant, because, the superiority and the property being in the same person, the right of voting in respect of the superiority is suspended, or the two rights of voting are merged in each other.

†. By the Scotch Act, 17th Sept. 1681, the qualification of electors for counties is confined to those who are infeft in property or *superiority*, and in possession of a forty shilling land of *old extent* held of the king or prince, or where the old extent appears not, to those who shall be infeft in lands, liable to taxes, for four hundred pounds Scots, (33*l.* 6*s.* 8*d.*) of *valued rent*.

Superiority is the seignior, as distinct from the usufruct of land. A superior who has not the beneficial property, is the mesne lord, between the king and the tenant. The rent service, or quit-rent, accruing to the superior, used to be a mere acknowledgment of right, and frequently not exacted. But in consequence of late decisions upon the head of nominal and fictitious, a new system has been adopted, by which the transaction assumes the shape of a real bargain of sale and purchase.

See *Bell on Election Law*, p. 303.

The *old extent* is a valuation of the lands in Scotland, supposed to have been made in the reign of Alexander the Third, in order to ascertain the proportion which the different proprietors were to pay, of a subsidy raised for his daughter's tocher,

this plan, Lord Eglinton, directly, or by the medium of his agents, entered into a treaty, and finally addressed proposals to the Respondent in the first, and the Appellants in the four last appeals; and also to Mr. Martin, his agent; Mr. Simpson, partner of Mr. Martin; Mr. Crichton, his factor; and a Mr. M'Kerrell; offering to sell and convey to each of them a life-rent superiority in the lands above-mentioned, sufficient to afford a freehold qualification, with a feu duty, payable by

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or portion, upon her marriage with Eric, King of Norway. Lands which were computed at 40s. in this old valuation, entitle the holder in life-rent superiority to be put on the roll of freeholders, whether they amount to 400l. valued rent, or not. But as by the statute of the 16th of Geo. 2. cap. 11. sect. 8. no other evidence of old extent can be admitted, but a retour of the land prior to the 16th Sept. 1681, the most general and easiest method of making out a qualification, is by what is called, the valued rent. A retour is an *inquisitio post mortem*, or verdict of a jury, who are summoned to inquire into the title of a claimant to succeed as heir to the estate of his ancestor.

The *valued rent* is a valuation of the lands in the different counties in Scotland, made in the time of the Commonwealth, and adopted after the Restoration.

An estate for life, in a superiority, of the value specified in the statute, entitles such superior to vote in the election of a representative for the Commons in Parliament. By dividing a large estate into such superiorities, and granting them for life, as many votes may be created as the number of forty shilling lands, or the amount of the valued rent of the whole, will bear. But this may be limited by the objections of the tenant, upon whom the lord is not at liberty to put a new superior without his assent. The practice of splitting superiorities to create votes has become so common in Scotland, that, in most counties, two or three proprietors (generally Peers) are, in effect, the electors of the representatives in the House of Commons.

See *Wight and Bell on Elections*, and *Ersk. Inst.*

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him as vassal to each life-renter. The disponee was to pay a price for his grant, in proportion to the feu duty receivable by him during his life, the value to be ascertained by reference to some of the common tables for calculating annuities.

Before the conclusion of the treaties upon this first proposal, it having been suggested to Lord Eglinton, by one of the intended purchasers, that an objection to the votes might arise, if the price given was a mere equivalent for the life-interest in the feu duty, that something ought to be added to the price for the freehold qualification; and that it would be expedient also, to prevent objections,* that the agents for the purchasers should prepare the respective dispositions in their favour; new proposals, framed upon these suggestions, were made to the several gentlemen selected as purchasers. These new terms were immediately accepted by all the intended vote-holders, and dispositions were accordingly completed, either upon making small additions to the price of each freehold, or by small reductions in the feu duty; so as to add or leave a consideration for the freehold, conferring the right to vote upon these titles.

At the Michaelmas head court, in 1816, claims of inrolment were presented on behalf of the several disponees, claiming rights to vote under the life-rent qualifications. The inrolments were opposed on behalf of the freeholders, by the Respond-

* These precautions were suggested upon consideration of the grounds of former decisions, by which freeholds had been held nominal and fictitious, and votes rejected under similar circumstances.

ents in the four last appeals, and objections were lodged in their names, as members of the court of freeholders ; upon the ground, that the freeholds were held upon terms of confidence, nominality, and dependence. These objections, having been considered by the court of freeholders, were sustained, and all the claims were rejected as inadmissible ; although the Claimants, who were present, offered to submit to examination, upon oath, as to the nature of their estates, and the terms on which they held them. The matter was then brought before the Court of Session, by petitions and complaints, at the instance of each of the claimants, appealing against the judgments of the freeholders, affirming their independence in the transaction, and their ignorance of any unlawful views, by which Lord Eglinton might have been actuated. These allegations they offered to establish *by their declarations on oath,* if the Court would direct interrogatories* to be administered to them upon the subject.

In the mean time, those who objected to the votes, presented a petition to the Court, craving a diligence for the recovery of writings relating to the transaction between the Earl of Eglinton and the petitioning tenants of his freeholds. By an interlocutor, dated Feb. 1, 1817, the Court granted to the objectors a power to recover all letters regarding the freeholds, which might have passed previous to the dates of the several dispositions between Lord Eglinton and his agent, on the one hand, and the proposed freeholders and their agents on the other. By virtue of this diligence, the cor-

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respondence was obtained, which comprises the substance, and forms the evidence of the case.* Upon the production of this correspondence, replies and duplies were ordered by the Court, and given in by the respective parties. Whereupon the Court having formed an opinion, that the confidential nature of the freeholds had been established by evidence, ordered all the petitions and complaints to be dismissed, finding that the titles of the Complainants were nominal, confidential, and fictitious, and sustaining the objections to the claims of enrolment; and further found the Complainers liable to the Respondents, in the penalty of 30*l.* sterling, in terms of the statute.†

* The correspondence, so far as it is made the subject of observation in the judgment, and enters into the reasons and grounds of the decision, is printed in the Appendix subjoined to the case.

By that correspondence, and the judgment, the slight distinctions and varieties in the cases of the several Appellants in the last four, and the Respondent in the first appeal, will sufficiently appear. It has been thought most convenient, and best suited to a clear apprehension of the subject, to state in the text no more than a general outline, comprehending the substance of all the cases.

† The Scots statute of 1681, Sept. 17, No. 21, which prescribes the mode of making up the roll of freeholders for the election of commissioners for shires, and the form in taking objections, and the process for obtaining a final decision upon such objections, provides that, “ If the persons objected against shall appear at the parliament, or convention, and instruct the right to vote, the objector shall pay their expenses, and be farther fined in 500 marks; and if the objection be sustained in parliament, the objectors appearing shall have their expenses, and the party objected against shall be fined in 500 marks.”

This statute is explained and amended by the 16th Geo. 2. cap. 11. which gives a penalty of 30*l.* against a claimant rejected by the freeholders, and appealing to the Court of Session,

Some of the parties, without reclamation or appeal, submitted to the judgments pronounced against them; but the Respondent, Mr. M'Knight Crawford, presented a petition, reclaiming against the interlocutor made in his case. This petition, complaining of the judgment, contained a request that he might be personally examined as to the facts of the transaction. In compliance with the order of Court, the Appellants in the first appeal gave an answer to this petition, declining to refer any thing to the oath of the Respondent, and insisting that the Court had no power to order the examination requested. On advising the petition and answers, the Court, on the 14th of Nov. 1817, pronounced an interlocutor, directing that a condescendence should be given in, containing such interrogatories to be answered by the petitioner, as the objectors might judge material, to ascertain how far the petitioner's qualification was nominal, fictitious, and confidential, or defeasible.

In pursuance of this order, a condescendence was given in, containing general interrogatories,* to be administered to the Respondent. The objectors, Appellants in the first appeal, at the same time protesting by a minute, that the interrogatories did not originate at their instance, and submitting that Mr. M'Knight Crawford should be interrogated, if at all, by judicial examination, either in the presence of the Court, or before a commissioner, and not by answers deliberately prepared, and returned in a written form. It was, however decided that the answers should be in writing; and they were so made accordingly.*

* See the interrogatories and answers in subjoined Appendix.

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Upon advising these answers, the Appellants in the first appeal having craved, that certain incidental questions, suggested by the answers, should be put to and answered, *vivâ voce*, by Mr. M'Knight Crawford; an interlocutor was pronounced on the 5th of Feb. 1818, whereby the Appellants in the first appeal were directed to lodge a minute, containing the additional interrogatories, which they proposed to administer to Mr. M'Knight Crawford. A minute, containing a few additional interrogatories, was lodged accordingly, and answers in writing were put in by the Respondent, Mr. M'Knight Crawford.

The whole cause, between the parties in the first appeal, came on to be finally heard on the 12th of Feb. 1818; when the Court, having considered the petition, answers, additional interrogatories, and answers to both, altered the interlocutor reclaimed against, and found that the petitioner, in virtue of titles produced before the freeholders, was entitled to be enrolled in the roll of electors, and that the objections to his title were not relevant. Therefore they granted warrant to, and ordained, the Sheriff-clerk of the county of Renfrew, to add his name to the roll. The Appellants in the first appeal, on the 4th of March, 1818, presented a petition, re-claiming against the judgment, but the petition was refused, without answers, by an interlocutor pronounced on the 7th of March, 1818.

In the last four cases,* the Appellants also re-

* The facts of the case as they relate to the appeals, with slight differences appearing in the subjoined correspondence, are very nearly similar. The only varieties material to be noticed

claimed against the judgments, but they were finally confirmed by the Court of Session. Against these several decisions of the Court below, the parties respectively appealed to the House of Lords.

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The Attorney General, Mr. Charles Warren, Mr. Brougham, Mr. W. Adam, and Mr. Robert Grant, appeared and argued on different sides for the respective parties.*

The principal questions argued were as follows :

1st, Whether there was any agreement, understanding, or honorary engagement between the Earl of Eglinton and the several grantees, that they should vote under his influence, and as he

Arguments
and questions:
Jan. 27, 30.
Feb. 1, 3, 5.

are, that as to the letter which is called the first circular from Lord Eglinton, there was no proof that it was directly communicated to Mr. M'Knight Crawford; that the purchase of his vote was transacted through the medium of Mr. Hugh Crawford, in the manner which will appear by the letters passing between the parties; and that Dr. Donaldson was the family physician of Lord Eglinton; a circumstance which formed a subject of observation in the printed papers, and the arguments before the House of Lords.

Of the nine life-rent dispositions, which were the subject of litigation in the Freeholders' Court, and the Court of Session, five, being the cases above reported, were brought before the House of Lords by way of appeal; one was re-disposed to Lord Eglinton; and upon the remaining three, judgments were given, finding them nominal and fictitious, and the parties did not appeal.

* The arguments occupied five days of hearing. They are not inserted on account of their length. The most material appear in the above abstract of the questions discussed; and in the opinion delivered by the Lord Chancellor.

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directed ; and whether such agreement, &c. could be inferred, from mere inadequacy of price.

2d, Whether it was sufficient to invalidate the vote, that such an agreement, &c. existed, unless it were rendered effectual by a concomitant agreement to re-convey the estate upon breach of the engagement as to voting, or unless the estate were in substance held in trust for the grantor, and whether such trust could be inferred from an honorary engagement to vote as the grantor should direct.*

3d, Supposing such understanding existed between the Earl and his agents, whether the proof of that fact, and the inferences to be drawn from their intercourse and correspondence with each other, or with any of the parties, could be evidence to affect the rights of other parties, and how far, and at what particular time, if at all, the grantees or any of them had adopted the agents of the Earl, as their agents in the transaction, so as to be affected by their acts and declarations.

4th, Whether the facts proved were sufficient ground to adjudge the votes nominal and fictitious ; or whether the oath of verity,† or interro-

* Whether the grantee in such case is bound to re-convey, was a question discussed in *Forbes v. M'Pherson*. Lord Thurlow inclined to the affirmative of that proposition. See the judgments in this case, and the opinion of Eldon, C., as to the equitable right of the grantor in a similar case. *Curteis v. Perry*, 6 Ves. Jun. 747. citing a case before Lord Kenyon, where a father had conveyed an estate to a son to qualify him to sit in parliament, and, the purpose having been answered, filed a bill to have a re-conveyance, the bill was dismissed with costs.

† See the Note, p. 178.

gatories respecting the purity of the transaction, ought to have been administered to the parties before the final decision of the Court of Session; and whether the Court had authority to direct such proceeding upon the requisition of the claimant, where it was opposed by the freeholders objecting to the votes.

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5th, Whether interrogatories could be administered to a party, who, by the answers, might subject himself to penalties by the Scotch act, 1681, and the English act, 16 Geo. 2. cap. 11. sect. 4.*

6th, Whether the grant of the superiorities did not constitute sufficient freeholds to entitle the grantees to be put upon the roll;† although the

* These penalties relate only to proceedings before the superior Courts, and not to proceedings before the Court of Freeholders. Whether this objection is competent to any but the party examined—Query. By the Scots Act, 1681, if the objection of the freeholders, to put the claimant on the roll, shall, upon petition, be sustained in parliament, the objectors appearing shall have their expenses, and the party objected against shall be fined 500 marks.

By the stat. 16 Geo. 2. cap. 11. sect. 6. which gives to either party aggrieved a summary appeal to the Court of Session, if the judgment of the freeholders, refusing to admit, or striking any person from the roll, shall be affirmed by the Court of Session, the party complaining shall forfeit to the objector 30*l.* sterling, with full costs of suit. As to the examination of parties upon oath, see Ersk. Inst. b. 4. tit. 2. sect. 8, 9. and the note, as to the exceptions in cases of prosecutions for penalties, and of interrogatories under the game laws, which are admitted, notwithstanding the liability of the party to penalties. See also the Note, p. 178, and further observations on this point.

† A freehold may be conveyed under such circumstances, that the party holding it would have no right to vote in the election of a Member of Parliament; yet he has many other duties and

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facts proved might have furnished valid objections to their votes.

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In the course of the arguments, the following were the principal authorities cited and discussed.

Forbes v. M'Pherson.* Fac. Coll. 6th March, 1789; D. P. 19th April, 1790; *Luders on Elect. v. 3*, p. 387.

Elphinstone v. Todd. Fac. Coll. 1st March, 1787; D. P. 30th April, 1787; *Luders on Elect. v. 3*, p. 394, App.

Case of *Stewart Soutar*. Fac. Coll. 3d March, 1807. *Fleming v. Drummond*, D. P. 23 July, 1811.

Stein v. Campbell, 18th Nov. 1815.†

Sir H. Moncrieff v. J. Campbell, 3-tius. W. S. 1813.‡

rights as a freeholder, for the purpose of performing and enjoying which, he ought to be put upon the general roll. The Stat. 1681, speaks of the election roll as a distinct instrument.

* In *Forbes v. M'Pherson*, the oath of verity was tendered, and inquiry prayed, by the freeholders objecting to the votes.

† In this case, the Court of Session found that the estate was nominal and fictitious, upon proof of an understanding between the parties, that the freehold was to be used for the behoof of the grantor. At the next annual Court of Freeholders, the grantee produced a discharge from the grantor, of any obligation to re-dispense, express or implied; and he was then inrolled upon the same titles as before. But upon complaint to the Court of Session, it was ordered that his name should be struck out of the roll.

‡ This case is not reported. The following are the circumstances under which it was assimilated to the present, and quoted, on behalf of the freeholders, in support of the objections to the votes. Mr. Campbell (the defender) was agent for Mr. Graham, of Kinross. In 1806, he wrote to him as follows: "I think a seat in parliament would be desirable for you in many points of view, and therefore take the liberty of suggesting to

Burnet's Case: Dict. of Dec. tit. Member of
Par. 8754, 30th July, 1745.

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“ you, that it may be proper to secure yourself against all risks
“ *by giving votes to some of your friends.*” The writer after-
wards added, “ My brother, George Brown, got a vote from
“ Mr. George Graham, but the titles never were delivered, and
“ he has not on that account taken it. Were you to confirm this
“ conveyance, as he has been some years infest, his vote would
“ be immediately a good one. To secure yourself, you would
“ require *at least other five.* Mr. Templar, I believe, would ac-
“ cept of one ; and I once, I think, heard him express a wish to
“ that effect. Dr. Henderson would be a safe one ; and if no
“ other occurred, William Brown, my brother-in-law, of the
“ Lisbon house, now resident here, might answer, and would
“ give a small purchase money to secure it from challenge. I
“ have requested Mr. Templar to write to you on the subject ;
“ and on mature reflection, I think it a matter of such conse-
“ quence to you, that I have extended a disposition by you to
“ Messrs. Templar, George Brown, and myself, of five votes,
“ which I enclose, that if you think right, you may sign it ac-
“ cording to the instructions annexed to it.”

Mr. Graham acceded to this proposal, and signed the dispo-
sition, after which Mr. Campbell again wrote to him as follows :
“ I wrote you in answer to the first, and prefix a copy of my
“ letter, and have to acknowledge receipt of the dispositions
“ and mandates, with which, I trust your friends will be able to
“ secure you a seat in Parliament. You do not mention the
“ names of these you mention to have enrolled. Should the at-
“ torneys approve, I would suggest the following : 1st, Mr.
“ Templar's son ; 2d, Mr. George Brown ; 3d, Mr. William
“ Brown ; 4th, John Campbell. These superiorities being taken
“ to support your interest, I reckon their value as follows : The
“ average price of superiority over Scotland may be taken at
“ 400*l.* sterling for a vote ; but Kinross is only represented every
“ second parliament. The value may therefore be taken at one
“ half, or 200*l.* This is the value of a proprietor in the county,
“ who wishes, besides having a vote, to connect his property
“ with a freehold. To those who have no property, but who
“ take it to support a friend, I would reckon 150*l.* a fair price.

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Hon. Spencer Chichester v. Sir Murray Maxwell. Fac. Coll. 28th Jan. 1809.

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“ This price I am very willing to pay, and I have no doubt that those whom I have mentioned will not stumble at it.”

In the month of May, 1809, some other votes in Kinrossshire having sold much higher than Mr. Campbell had calculated, he wrote to Mr. Graham in the following terms: “ Whilst on the subject of superiority, I think it proper to mention, that the value having gone far beyond my idea of it; and, of course, the calculation on which I proposed the price to be paid by your friends, who took the votes with the view of supporting your interest, turn out inapplicable, I consider myself bound to give up the vote, which on these principles I got to myself. The price of 150*l.* sterling, which, with interest, was to be paid out of the money to be drawn from India, is quite under the mark, which, in proportion to the 375*l.* should be at least 250*l.* I beg leave, therefore, to re-dispone to yourself, or any friend you may wish.” In answer to this letter, Mr. Graham, of this date, said: “ In regard to your own qualifications, it is my wish that it should remain as originally arranged, with this exception, that in the event of your having a wish to relinquish it, I should have an option of taking it back on the same terms.” To this letter, Mr. Campbell answered thus: “ I delayed troubling you, in hopes of seeing you here; but as the time draws near for lodging claims of enrolment, I think it necessary to mention, that I do not consider such an understanding, as that mentioned in your last, at all safe. It would be considered as evidence of the vote being nominal and fictitious. Whatever votes you make, therefore, you must consider as real conveyances, and it is in that view I feel such delicacy in retaining the vote. When I stated the 150*l.* as the price payable by your friends, I looked on 250*l.* as the most a vote could go to; and I consider the value of 250*l.* as not too much to make up for the loss of interest on the 150*l.* whilst it should be held, as the holders could reap no benefit from the property. As the price however has gone so high, I do not see any plan that can be followed, but my giving it up, or advancing the price a little. I could not conveniently go above 200*l.*, but I am willing to give this sum, and thus make the vote a good one.

Drummond *v.* Adam, ditto, 26th Jan. 1813.*
 Montgomery *v.* Dalrymple, 2d March, 1813.†
 Case of Gordon of Cluny, June 27, 1807.
 ——— Belches, June 29, 1809.
 Wigton Cases, June 29, 1805.
 Case of Proby. ‡

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“ There can be no agreement about a return, but from the con-
 “ nexion that would follow of course. I beg to hear from you,
 “ as to this. In course, I shall lodge the claims.” Mr. Graham
 acquiesced in the proposition for valuing the vote at 200*l.* and
 Mr. Campbell was enrolled by the freeholders, but the Court of
 Session ordered him to be expunged from the roll, with costs.

* This was a case of gratuitous grant, at an elusory feu duty,
 by an uncle to a nephew. The Court of Session, upon complaint
 of a freeholder, ordered the name of the claimant to be struck
 out of the roll. The House of Lords, on appeal, remitted the
 cause—that interrogatories might be put to the claimant. He,
 by his answers, having denied that any confidence or under-
 standing existed between him and the grantor, his right to inrol-
 ment was confirmed.

† This case is not reported. The objection was, that the free-
 hold having been taken in exchange for another freehold, in a
 different county—the mutual grantees being also candidates for
 the respective counties, at the ensuing election—was void, as
 nominal, fictitious, and confidential. But the Court of Session
 decided otherwise, and Lord Meadowbank observed: “ It is a
 “ confidence which the law allows. It is a motive for the grant
 “ of the vote; but does not affect its legality or independence.
 “ They have a mutual confidence in and affection for each other.
 “ There is no nominality, nothing fictitious. We have only to
 “ consider whether the freehold is held in trust. I do not see a
 “ vestige of any thing of the kind. The fee is given away. It
 “ is given absolutely to a personal friend. And is a personal
 “ friend incapable of receiving a gift?”

‡ In this case, a freehold gratuitously granted by Lord Sea-
 forth to Mr. Proby, who had been his secretary, was held not
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Case of Campbell, 1813, 14.*

Cheap v. Morehead. Bell on El. Law, p. 321,
Ed. 1812.

Campbell v. Muir, 5th Feb. 1760. Aff. on Ap-
peal, 1st Dec. 1760.

Stewart v. Dalrymple, 28th Feb. 1781. H. of
L. 30th April, 1782.

Skene v. Skene, 9th March, 1768. H. of L. 9th
May, 1790.

Lyndsay v. Drysdale, 6th March, 1788.

The substance and effect of the cases, which are
noticed here only by name, are to be found in
Bell on El. Law, p. 274 to 335.†

* This was another case of a gratuitous grant by Lord El-
phinstone, who was at that time Lord Lieutenant of the County,
to his clerk of lieutenancy and quondam secretary. It was held
valid.

† In the course of the argument, it was said, that answers to
interrogatories should not be confounded with the oath of ve-
rity. But the distinction (if any) seems to be little more than
nominal. Answers to interrogatories are declarations upon oath,
by a party either confessing or denying what is alleged or pro-
posed, by questions put at the instance of the adverse party, or
ex officio by the judge; as in the case of M'Knight Crawford.

The law as to examination upon the oath of verity, so far as
it regards the subject discussed on this point, is thus stated by
Erskine, b. 4. tit. 2. sect. 8.

“ Though one's right may be taken away by his own oath,
“ when, upon a solemn appeal to God, he is forced to acknow-
“ ledge that his claim is ill-founded, or cut off by a just excep-
“ tion; yet it is a self-evident proposition, that no man's right
“ can, in the common case, be either proved by his own oath, or
“ extinguished by that of his adversary; because these are no
“ more than the averments of the parties themselves in their own
“ favour. From this rule, however, there is an exception in the
“ case of oaths, which are called *oaths of verity*, where the pur-

The arguments proceeded chiefly upon the foregoing authorities, and the construction and

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“suer, confiding in the defender’s veracity, or perhaps sensible
“that he can bring no other evidence, refers the point in con-
“troversy to his oath. For if the defender shall, upon such re-
“ference, swear that the pursuer’s claim was either groundless
“from the beginning, or is now extinguished by payment, it is
“entirely cut off by such oath, though the strongest evidence
“should be afterwards brought, that his claim was good. In the
“same manner, the right of a pursuer may be proved by his own
“oath, affirming it to be good, when the defender refers the
“point in issue to it. An oath of verity has so strong an effect,
“not because it can work any conviction in the Judge from the
“nature of the evidence ; for no single testimony upon oath, of
“the most unsuspected witness, can be received in evidence ;
“but it depends entirely on the transaction that is supposed to
“intervene between the party referring, and him who deposes,
“by which they put the issue of the cause upon what shall be
“sworn,” &c.

Sect. 9. “Oaths of verity cannot be urged against a defender
“in any trial properly criminal, so as to compel him to depose
“against himself. *Vid. infr. t. 4, sect. 94* ; but in trespasses,
“where the conclusion draws no deeper than the damage of the
“person wronged, or a pecuniary fine, a defender may be com-
“pelled to swear ; as in bloodwits before an inferior Judge :
“*Durie*, Feb. 13, 1634, (*Tait against Darling*, Dict. p. 7300) ; in
“batteries, *Fount.* July 24, 1678, *Gordon* (Dict. p. 9397) cited
“in folio Dict. 11, p. 14 ; and in injuries verbal or real, Clerk
“*Home* 5, (*Fiscal of Edinburgh*, Jan. 2, 1736, Dict. p. 9400).
“The same was decided in a prosecution, brought by the procu-
“rator fiscal, on the Statute 1707, c. 13, ‘for preserving the
“‘game,’ where the prosecutor restricted his claim to one pe-
“nalty of 20*l.* Scots ; *Fac. Coll.* June 27, 1787. *Procurator*
“*Fiscal of Edinburghshire*, Dict. p. 12442.

Sect. 14. “Oaths of verity, as they have been now ex-
“plained, are oaths referred voluntarily by one party in a suit
“to his adversary ; which therefore are finally decisive of the
“cause. But oaths of verity are sometimes put by the Judge
“*ex officio*, without reference by either party to the other ;

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operation of the Scotch Act, 1681, the 12 Anne, st. 1. c. 6. and the 7 Geo. 2. cap. 16.*

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The Lord Chancellor.—The question in these cases relates to several interlocutors, which have been pronounced by the Court of Session, in the five several causes which have been heard at the bar; all of them involving a consideration of the same or similar points; whether the estates created by the Earl of Eglinton, according to the law of Scotland, are real or nominal and fictitious estates in the several persons to whom he sent, what is called, the circular letter; namely, one to Mr. Hugh Crawford, writer in Greenock; another not sent by himself, but communicated by

“ which, because they are necessary, and not grounded on any
“ implied contract between the litigants, are not final; so that
“ sentences proceeding on them may be declared void upon
“ proper vouchers afterwards recovered; or the cause may be
“ brought from the inferior Court to the Session, on this ground,
“ that the Judge ought not to have ordained the party to swear,
“ &c.”

* By the 7 & 8 W. 3. all conveyances, in order to divide the interest in any houses or lands among several persons, to enable them to vote at elections of members to serve in Parliament, are declared void.

By the 53 Geo. 3. cap. 49. it is declared, that demises by will shall be held conveyances within the meaning of the Act.

By the 45 Geo. 3. cap. 59. sect. 8. amending the Irish Act, 35 Geo. 3. cap. 29. it is enacted, that if any person shall fraudulently grant any interest, importing to be a freehold, which is not so, with intent to enable any person to vote, such grant shall be valid against the grantor,† for every purpose but enabling the grantee to vote.

† The word “and” seems here to be wanting in the clause.

Hugh Crawford to William M'Knight Crawford; another to Humphrey Graham, writer to the signet; another to Francis Martin, a writer at Paisley, who appears to have been a sort of agent to the others; and that communicated by him to a gentleman of the name of Alexander Simpson, his partner. There was likewise a letter sent to a gentleman of the name of Fulton M'Kerrell, who was a manufacturer at Paisley; and this circular letter appears, according to the statement I have in my hand, to have been communicated by him to his brother John M'Kerrell, likewise a manufacturer there. Fulton M'Kerrell gave up his freehold, as it is stated, in order to make way for William M'Knight Crawford. The seventh person particularized, is Mr. John Geddes. There appears likewise to have been (though we have not heard much of that, except that in the papers before me there is an occasional reference to it) a communication to a gentleman of the name of James Crichton, a writer at Irvine. And the ninth, was Dr. William Donaldson, physician in Ayr.

As I understand the proceedings of the Court of Session, the first division of the Court of Session decided, in the first instance, that William M'Knight Crawford's title was nominal and fictitious, but they seem afterwards to have thought it requisite, further to examine the grounds of that Judgment; and accordingly, under the direction of the Court, the persons who objected to this vote administered to William M'Knight Crawford, a great variety of interrogatories; and notwithstanding the inferences stated in the pa

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pers, and the implications as to what must have been the intention and understanding of William M'Knight Crawford, drawn from the nature of the correspondence which took place between the Earl of Eglinton and his agents, and particularly Mr. Hugh Crawford, it is material to observe, that William M'Knight Crawford, when the Court directed him to be examined upon interrogatories, has entirely, or to a very great extent, destroyed all those inferences and implications. Why similar inferences and implications should not be equally answered by others, whose cases were not much, if any thing stronger than his, I do not perceive.

With respect to Mr. Francis Martin, who was a writer in Paisley, very much connected with Lord Eglinton, it appears from one of his letters, that he certainly meant to accept this vote, in order to support the political influence of Lord Eglinton. He has thought it right, I understand, to abandon his vote. In so doing, it must be considered, that he has acted from a sense of honour, and propriety: for, notwithstanding the terms of this letter, I doubt whether he could have been compelled to abandon his vote.

Mr. Simpson, his partner, became a purchaser of one of those estates, in consequence of a representation made by Mr. Martin, in a letter to Lord Eglinton. He appears to stand very much in the same circumstance as Mr. Martin, and I understand that Mr. Simpson has likewise abandoned his vote.

Mr. Fulton M'Kerrell made way for William

M'Knight Crawford, whose vote has been sustained. Upon the correspondence of M'Kerrell, it is extremely difficult to say, that he was not bargaining for an independant vote; and from that circumstance, I should have inferred that the person standing in his place, William M'Knight Crawford, was also bargaining for an independant vote. If we are permitted to infer from the acts of one man, to the intention of another, it may be difficult to answer the inferences which a suspicious mind would raise. From the acts of Hugh Crawford, who dealt for William M'Knight Crawford, to a certain extent, he was his agent. But if it can be shown, upon this correspondence, that Fulton M'Kerrell was really bargaining for an independant vote, and where Lord Eglinton appears not indisposed to let him have such a vote, it is difficult to suppose that a change was made with respect to the person to stand in his place.

In the case of Mr. Geddes, the first division of the Court of Session having found that his titles were nominal and fictitious, he has complained of this interlocutor. What has been done with Mr. Crichton, I do not know: as he was an agent of Lord Eglinton's, he has probably abandoned his claim.

Then there follows the case of Dr. William Donaldson, who is a physician of Ayr. With reference to whom they found likewise, without examination of the party, that his vote was nominal and fictitious; among other circumstances, upon this, that Dr. Donaldson is, as they say, the phy-

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sician of Lord Eglinton, and it has been contended in argument, that, being physician of Lord Eglinton, he could not purchase of his patient a substantial vote.

Appeals have also been made, by Mr. Hugh Crawford, who complains that his vote has been taken to be nominal and fictitious; by Mr. Graham, who complains that his vote has been taken to be nominal and fictitious; and by Dr. Donaldson, who makes the same complaint; that is, there are four persons who state that their estates are mere estates, affected by no obligation, either of a perfect or imperfect kind (I will state presently, why I use the term of an imperfect nature); and that they ought therefore to be put upon the roll, and be allowed to vote on elections. On the other hand, there is an appeal from the gentlemen who are the voters' objectors, with respect to the estate of William M'Knight Crawford; and who say, that the Court of Session is quite mistaken in finding that his estate was not nominal and fictitious. They insist that his estate is nominal and fictitious, although interrogatories have been addressed to him, which would puzzle, I think, Mr. Crawford, as much as many we have seen in this part of the island.

It is not my intention to discuss at present the law of Scotland, as to what does or does not constitute nominality and fictitiousness, further than I find it determined in cases. I think we shall be able to collect from these cases, and what has been stated in Judgment in this House, what this House has taken to be (if I may use such an ex-

pression) the common law of Scotland; by which I mean the law of Scotland as it has obtained, independantly of those statutes which have prescribed the rule to us, and likewise the effect of the law of Scotland with respect to those statutes which require an oath to be taken to guard against nominality and fictitiousness. I do not enter into the discussion, because the law of Scotland is very fully stated in the cases, and therefore it would be a useless waste of time.

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It is not my intention to say one word upon the question; whether it is good policy, or whether it is likely to contribute to the purity of the constitution, that estates, not nominal and fictitious, but legal, should be reserved and created in the way in which it is acknowledged they may in Scotland. I accede to the notion of Lord Thurlow, who says: * “ He must be a bold man, who undertakes, - on any abstract ideas, to new model the constitution of a country.” We are not assembled here as a branch of the legislature, but as a Court of Session, to decide what the law is now, and not what it ought to be.

The Scotch statute, which passed on September 17th, 1681, regulates the election of commissioners for shires. According to the opinion of Lord Thurlow, supposing the subsequent statutes of Queen Anne and George the Second not to have passed, this objection of nominal and fictitious would have been just as good an objection, as it was after the acts of Queen Anne, and George the Second passed. This statute regu-

* In Forbes v. M'Pherson.

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lates the manner in which freeholders shall be allowed to vote. It was made to prevent delay in dispatch of public affairs in parliament, and convention of estates, occasioned by the controverted elections of commissioners for shires. It directs who shall vote in the election of commissioners; namely, those who shall be publicly infeft in property or superiority, and in possession. It provides for the making up of the roll, and at the time when the roll is to be made up, objections may be taken. The persons who, according to this statute, have a right of voting, are those who are publicly infeft, and in possession.

It then states, “ that if the objections shall not be cleared, and acquiesced, they shall take instruments against the admitting to, or excluding any person from the roll, and that no other objection shall be held competent in parliament or convention, but what shall be contained in the instruments taken as aforesaid.” (I observe here, there were other objections, besides those of nominality and fictitiousness taken in the Freeholders’ Court, and again at the election, but all abandoned, except those of nominality and fictitiousness.) Then it is declared, that if the persons objected against shall appear at the parliament or convention, and instruct the right to vote, the objector shall pay their expenses, and be farther fined in 500 marks; and if the objection be sustained in parliament, the party objected against shall be fined in 500 marks. I have read thus much of the statute, which has no application to the question before us, except as it describes the nature of the property which the

voters are to have, for the purpose of taking notice of this penalty of 500 marks. Upon which it may be enough for me to say, that, whatever my opinion may be upon what is to be found in the text writers and the practice of the law of Scotland, there is a great difference between acting upon the oath of the party directed to be administered in such cases, and a penalty given in the nature of damages to the party objecting. It may be open to argument, whether, when a statute gives a penalty, in any shape, the construction of that statute is to be a loose or a strict construction. I state this remark the more strongly, because, in addition to the penalty of 500 marks, the party is required to take the oath prescribed by subsequent statutes; by which it is further provided that the party shall not only be subject to a penalty, but be indictable for perjury.

The statute of the 12th of Anne says this :
 “ Whereas of late, several conveyances of estates
 “ have been made in trust, for redeemable elusory
 “ sums, no ways adequate to the true value of the
 “ lands, on purpose to create and multiply votes
 “ in elections of members to serve in parliament,
 “ for that part of Great Britain called Scotland ;
 “ Be it enacted, that from and after the determi-
 “ nation of this present parliament, no convey-
 “ ance or right whatsoever, whereupon infestment
 “ is not taken, and seizin registrated, one year
 “ before the test of the writs for calling a new
 “ parliament, shall, upon objection made in that
 “ behalf, entitle the person or persons so infest to
 “ vote, or to be elected at that election, in any

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“ shire or stewardry, in that part of Great Britain
“ called Scotland; and in case any election happen
“ during the continuance of a parliament, no con-
“ veyance or right whatsoever, whereupon in-
“ feoffment is not taken one year before the date
“ of a warrant for making out a new writ for
“ such election, shall, upon objection made in
“ that behalf, entitle the person or persons so in-
“ feft, to vote or be elected at that election.”
This part of the act seems to apply rather to oc-
casionalty than to nominality and fictitiousness.”

The next part of the act is applied to this point. “ And that from and after the said day, it
“ shall or may be lawful to or for any of the elec-
“ tors present, suspecting any person or persons
“ to have his or their estates in trust, and for the
“ behalf of another, to require the preses of the
“ meeting, to tender the following oath to any
“ elector; and the said preses is hereby empow-
“ ered and required to administer the same in the
“ words following: I *A. B.* do, in the presence of
“ God, declare and swear, that the lands and es-
“ tate of —, for which I claim to give my vote
“ in this election, are not conveyed to me in
“ trust, or for the benefit of any other person
“ whatsoever; and I do swear before God, that
“ neither I nor any person to my knowledge, in
“ my name, or by my allowance, hath given, or
“ intends to give, any promise, obligation, bond,
“ back bond, or other security, for re-disposing or
“ re-conveying the said lands and estates, any
“ manner of way whatsoever; and this is the truth,
“ as I shall answer to God.”

This statute does not in terms, as I perceive, enact, that a person shall be guilty of perjury, and suffer the pains of perjury as the subsequent statute does; but perhaps, one might venture to go the length of saying, that, without an express enactment, the party might be considered as guilty of perjury.

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The words of this oath deserve peculiar attention. It appears to me, from the language of Lord Thurlow, in the case of Sir John Macpherson, that he kept them in view, when he came to talk of what he called the honorary obligation. I was counsel in that case; and I have to this moment, a very lively recollection, that I considered this thing called honorary obligation, though very fit to be considered, was an extremely difficult thing, to be enforced by positive law. When Lord Thurlow speaks of honorary obligation, he uses an explanatory expression, which, in itself, suggests a good deal of difficulty to the trammelled mind of a lawyer, that you are to find, not merely that the voter has a motive operating upon his own mind, but you must be satisfied “that some
 “sensation has passed out of the mind of the gran-
 “tor into the mind of the grantee, and that the
 “sensation has returned again, out of the mind of
 “the grantee into the mind of the grantor;” so that there shall be an understanding between them, that the vote is to be used, as the author of the vote shall be pleased to direct. And Lord Thurlow seems to have been of opinion, that if a man was so circumstanced as to be under an honorary obligation, as to the use he was to make of the real

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estate, he must consider himself under the same obligations of honour to re-dispone the estate.

The statute of the 7 Geo. 2. which is entitled,
 “ An act passed for the better regulating the elec-
 “ tion of members to serve in the House of Com-
 “ mons, for that part of Great Britain called
 “ Scotland, and for incapacitating certain persons to
 “ be elected, or to sit or to vote in that House—”
 that act recites, “ Whereas doubts may arise,
 “ whether the acts of parliament made in England,
 “ for preventing false and undue returns of mem-
 “ bers to serve in parliament, extend to that
 “ part of Great Britain called Scotland.” Then
 there is a penalty given against a false return. Then
 it is enacted, “ that every freeholder, who shall
 “ claim to vote at any election of a member to
 “ serve in parliament, for any lands or estate in
 “ any county or stewartry in Scotland, or who
 “ shall have right to vote in adjusting the rolls of
 “ freeholders, instead of the oath appointed to be
 “ taken by an act made in the 12th year of Queen
 “ Anne, shall, upon the request of any free-
 “ holder, formerly inrolled, before he proceed to
 “ vote in the choice of a member, or on adjusting
 “ the rolls, take and subscribe, upon a roll of
 “ parchment to be provided and kept by the she-
 “ riff, or stewart clerk, for that purpose, the oath
 “ following, which the preses, or clerk to the
 “ meeting, is hereby empowered and required to
 “ administer, that is to say, I *A. B.* do, in the
 “ presence of God, declare and swear, that the
 “ lands and estate of —, for which I claim a
 “ right to vote in the election of a member to

“ serve in parliament, for this county or stewartry,
 “ is actually in my possession,” (those words are
 not in the act of Queen Anne,) “ and do really
 “ and truly belong to me,” (those words are not
 in the act of Queen Anne,) “ and is my own pro-
 “ per estate,” (those words are not in the act of
 Queen Anne,) “ and is not conveyed to me in
 “ trust, or for or on behalf of any other person
 “ whatsoever,” (those words are in the act of
 Queen Anne;) “ and that neither I nor any person
 “ to my knowledge, in my name, or on my ac-
 “ count, or by my allowance, hath given, or in-
 “ tends to give, any promise, obligation, bond,
 “ back-bond, or other security whatsoever,” (those
 words are in the act of Queen Anne). Then fol-
 low these words, which are not in the act of
 Queen Anne: “ other than appears from the tenor
 “ and contents of the title upon which I now
 “ claim a right to vote, directly or indirectly, for
 “ re-disposing or re-conveying the said lands and
 “ estate in any manner of way whatsoever, or for
 “ making the rents or profits thereof, forth-
 “ coming to the use or benefit of the person from
 “ whom I have acquired the said estate, or any
 “ other person whatsoever.” Then follow these
 words, upon which, if they had not received a ju-
 dicial construction, and received that judicial con-
 struction over and over again, I think it would
 have been very open to argument what the mean-
 ing of them was: “ And that my title to the said
 “ estates is not nominal or fictitious, created or
 “ reserved in me, in order to enable me to vote
 “ for a member to serve in parliament, but that

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“ the same is a true and real estate in me for my
“ own use and benefit, and for the use of no other
“ person whatsoever; and that is the truth, as I
“ shall answer to God.”

If this had been *res integra*, I should have found it extremely difficult, in the case of any person claiming an estate under the circumstances now before us, to have advised that person to swear that his title to the lands was not created or reserved in him, in order to enable him to vote for a member to serve in parliament. But construction has put an end to all argument. It has been determined, that you are to take the whole of this sentence together, and that if the purpose be, as in this case I have no doubt it was the purpose of Lord Eglinton, to enable the party to vote in elections to parliament, yet the words following are to qualify those words, namely, “ that the
“ same is a true and real estate in me for my own
“ use and benefit, and for the use of no other per-
“ son whatsoever;” and that, although an estate should have been created or reserved, in order to enable a party to vote for a member for parliament, yet, if it was a real estate in him, vested in him for his own use and benefit, though the purpose was to enable him to vote for a member in parliament, yet, if he was under no obligation in point of honour to vote otherwise than his judgment would direct him to vote, the estate, nevertheless, was not to be considered as nominal and fictitious, but to be considered as a good estate.

Upon the authority of decided cases, these

principles are considered as now settled by the law of Scotland; namely, that if the estate is really an estate vested in a person for his own use and benefit, if it be an estate of a quality to give a vote for a member to serve in parliament, the extent of it is of no consequence; and if *bona fide* given without consideration, the fact of its being so given is no objection to the vote. I have found no case in which it has been decided that if the sensation in the mind of the grantor does not pass to the mind of the grantee and the sensation in the mind of the grantee does not pass back again to the mind of the grantor—if there is not an understanding created between them, that the man shall vote as the grantor of the estate shall direct him to vote, that it will not be a good vote. It has been held, and Lord Thurlow himself has stated, that he cannot meddle with estates when the persons voting in respect of them, vote from gratitude, or common obligation, but that there must be a sort of paramount and perfect obligation disappointing the law, as he expresses it; an understanding, that the man who made the vote made it for the purpose of making the grantee his creature, and that the man who took the vote understood that he so took, and was under, if we may so call it (I cannot easily define it), an honorary obligation, that he would in truth become the creature of the man who meant to give him the estate, for the express purpose of his voting as he the grantor pleased. I should apprehend, that Lord Thurlow must have conceived (as it appears from the tenor of his judgment in

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the case of Sir John M'Pherson) that this did not depend upon the oath, but was in the nature of the parliamentary law of Scotland. It would, indeed, be very difficult to apply to an honorary obligation the words which are contained in the statute: "In case any person shall presume wilfully and falsely to swear and subscribe the said oath, and shall be thereof lawfully convicted, he shall incur the pains and penalty of perjury, and be prosecuted for the same, according to the law and form in use in Scotland."

In a Civil Court, much might be effected, according to that case of Sir John Macpherson. Where an oath is administered to the parties, the grantee may declare upon his oath, that he was not bound, that he would not have taken the estate, if there had been any suspicion that he was bound in honour; that the grantor may also declare that there was no such understanding on his part; that in creating votes for members of parliament, he would much rather give those votes to his political friends, and to men of his own turn of thinking, under the notion that, morally speaking, they were much more likely to support his own notions of the constitution of the country, than other persons who differed from him. But, on the other hand, if both parties were to pledge themselves by their oaths, that whatever were the language, or the appearances, neither the one nor the other had any such intention; that no such understanding or obligation existed; it would be a very bold measure, to say, on the general words of this oath, that the parties must be convicted of

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wilful perjury. It must, therefore, I apprehend, have been the idea of Lord Thurlow and this House, in the case of Sir John Macpherson, when they resorted to the term "honorary obligation," that it was not the thing prohibited by this oath, but that kind of understanding, which it is very difficult to prove exists, but which, when proved to exist, this House has undoubtedly determined, would vitiate the vote, upon the ground that it was not a real, but a fictitious estate; that the grantee was bound in honour to make no use of it; and he is equally bound in honour to re-dispose it, lest he should make use of it. In other words, to make the honorary obligation equal to the effect of the oath, where the honorary obligation existed, inducing the consequence in law that the estate was not a real estate, and inducing a further consequence in law, if the estate could not be used; namely, the obligation to re-dispose it.

In *Forbes v. Macpherson*, it is material to consider what this House must be taken upon the record to have decided. For the Judges of the Court of Session have, in all the cases now before us, except the case of *Macknight v. Crawford*, refused to direct an examination, which this House required in *Forbes v. Macpherson*; yet the Judges of the Court of Session suppose they have been acting upon the authority of this House in the case of *Macpherson*.

I have stated what appear to me to be principles established, and they may be taken so

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to be. Yet there is no denying, on the other hand, that if a doubt fairly arises, whether the vote is nominal and fictitious, or not, you will look at all the circumstances; you will inquire whether the man has the possession; you will look at the want of consideration; and in every case of that kind, there may be a number of circumstances creating suspicion, which would, on sound principles, mature a suspicion into judgment, that the estate was nominal and fictitious. But then I see Lord Thurlow, when he was venturing upon this extremely delicate and difficult ground, this thing called honorary obligation, states himself thus, "It must be upon the general state of the transaction, that the Court may collect, that the estate, instead of being intended to be used or disposed of by the grantee, was intended between them, to be at the use and disposition of the grantor, and whenever a case affords circumstances sufficient, fairly and roundly to raise that presumption in an unanswerable degree, or to raise it in a degree which the party himself cannot answer," (that is, cannot answer by his oath) "in such a case as that, the vote must be held to be void." Then, Lord Thurlow here requires that the circumstances should fairly and roundly raise that presumption, in an unanswerable degree. I observe here, that the Judges of the Court of Session were at first of opinion, that in the case of M'Knight Crawford, the presumption was raised in an unanswerable degree; but when they have put the

party to answer, he has answered in a clear and unequivocal way, and they have reversed their judgment.

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Taking the whole of what Lord Thurlow says together, he does not mean to say, that he would not raise the presumption, merely because the party answers it. His expression is, if the presumption is raised in a degree which the party himself cannot satisfactorily answer. He appears to be of opinion, (and I think the case imports as much,) that although the party has been examined on interrogatories, yet, if the case required you to disbelieve the party, (it is another question, whether you believe him or not,) you might disbelieve him, provided the circumstances had fairly and roundly raised such a presumption, that his answer to it could not get the better of that presumption, and could not repel it, and drive it out of the judicial mind of the court.

This being the way in which the matter was treated in the case of *Forbes v. Macpherson*, it is hardly necessary to state the former case of *Elphinstone v. Todd*, Lord Thurlow's judgment in which is set forth in the printed cases.* In the later case, I think I shall be able to determine what must have been the meaning of the House. As the case is stated, it is said, "It is
"believed no country can afford a more remark-
"able instance, than the county of Aberdeen,
"where, by parcelling out the superiority of lands
"contained in one charter, a noble Duke has at-

* See the judgment in *Luders, Election Cases*, vol. iii. p. 371.

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“ tempted to add to the roll of freeholders, one
“ wadsetter, and twenty-four life-renters ;” (that
is, five-and-twenty. Upon that I would observe,
there is no doubt in the world that the contempo-
raneous creation of votes, and the number of
votes contemporaneously created, are circum-
stances of evidence to be attended to. In the pre-
sent case we have nine, in the case of the Duke of
Gordon there were twenty-five :) “ In consequence
“ of an equal number of dispositions and assigna-
“ tions, all dated in one day, the 26th of Sept.
“ 1786, and of as many instruments of seisin, all
“ dated in like manner, the 27th, and registered
“ the 29th of the same month,” (there is, indeed,
a similarity in the cases, in respect of the dates
of the instruments.) “ The whole of these pre-
“ tended titles were made by the order, and at the
“ expence, of the Duke of Gordon.”

But in this case, Lord Eglinton is not so libe-
ral, and he has found more disinterested adhe-
rents. For they have given large considerations
for their purchases, and it is not alleged in the
case that they have not substantially parted with
the money. If it were fit for judicial minds to
entertain suspicion, there might be ground for a
surmise that the money which passed, was like a
sensation that it passed from the hands of the
grantee to the hands of the grantor, and back
again from the hands of the grantor to the hands
of the grantee. But allegations of such a nature
cannot be entertained without proof, nor can it be
presumed, in the absence of proof, that this gen-
tleman, the physician, and several others, who had

no more connexion with the Earl of Eglinton than the most indifferent persons or mere strangers, have thought proper, in order to become his creatures, and to vote as he pleased, each of them to put into his pocket a hundred pounds, or thereabouts. There is no contract to redispone that money, a circumstance which becomes extremely material.

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If a proposition were made to give me an indifferent vote, provided I would send the proposer a certain sum of money, and in a country where it is expressly admitted, that if it be absolute gift, without a money consideration, it is a good vote; can it be requisite, that I, as a purchaser, should reject an independent vote, because it is offered at a low price. Must I insist on paying a larger price, than the owner demands for his vote. It is possible I may be taking from him, as matter of sale, that which is intended as matter of gratuity; but surely it is contrary to the settled rule of legal presumption, to hold that, because the surrender is made in that shape, therefore, it must be a case *ubi aliud agitur, aliud simulato concipitur*. Those who make the allegation, must prove it; they cannot shut out the evidence, whether the fact be of the one nature or of the other. In the case of the Duke of Gordon, the whole affair was transacted at his own expence. He had not the least consideration for any of the estates conveyed, some of the alienees being asked previously, whether they would accept of a qualification. The deeds, when engrossed at Edinburgh, were blank, in the names of the grantees, and remained so till sealed at Gordon Castle.

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After this, a very remarkable circumstance happened. It suited the purpose of the Duke of Gordon, to tender these votes when at the Freeholders' Court in Aberdeen; but it suited likewise the ideas of the agent of the Duke of Gordon, without any communication with any one of these voters, whose claims had been improperly put upon the roll, (as it was said,) to withdraw the whole five-and-twenty of them; and then in the subsequent year, without any authority from any of these claimants, except two, they were brought forward again; and being brought forward, the freeholders stated, that the qualification upon which Sir John Macpherson, (who was one of them,) claimed to be enrolled as a freeholder of the county, was nominal and fictitious, and created for the sole purpose of enabling him to vote, and that in fraud of the statute of 7 Geo. 2. The majority of freeholders, however, thought proper to admit him to the roll.

In consequence of this, there was an application under the authority of the statutes, summarily to the Court of Session, and various questions were proposed to be put, in order to prove that these votes were nominal and fictitious. The questions, each and every of them, I understand to have been sanctioned as questions which might be put by the Court; because the Judgment of this House was, that Sir John Macpherson should confess or deny the averments in the pleadings mentioned. The averments in the pleadings mentioned were, "First, that the conveyance
" of the lands, contained in the Respondent's
" titles, was made without his previous consent,

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“ or knowledge, or at least, that the Respondent
 “ was solicited by the noble Duke, from whom he
 “ derived his right, to accept of a freehold qualifi-
 “ cation. Secondly, that the expence of making
 “ out the title deeds was paid by his Grace :” (and
 I need not here state, that matters, which are
 alleged, and not denied, are in Scotch pleadings
 taken as confessed.) “ Thirdly, that these title
 “ deeds were not delivered to the Respondent be-
 “ fore his enrolment, or at any time in his posses-
 “ sion previous thereto. Fourthly, that when he
 “ was informed of the conveyance, or was pre-
 “ vailed upon to accept it, he did not mean or
 “ think himself called upon to defray the expence
 “ of defending his title in the Court, or elsewhere.
 “ Fifthly, that he did, when he accepted the said
 “ conveyance, and still does, consider himself *as in*
 “ *honour bound* to vote for the candidate who may
 “ be patronized by the noble Duke, and to re-
 “ nounce his freehold qualification at his Grace’s
 “ pleasure.” To be sure, if a man was bound in
 honour to vote for the candidate of the Duke,
 and felt that obligation in honour, he could not
 say that he was not bound in honour (to use a
 Scotch phrase) to denude himself of the estate,
 when called upon, in case his views differed from
 those of his patron.

What did Sir John Macpherson say to these
 averments? (Lord Thurlow anticipated that Sir
 John Macpherson could not support his case by
 the oath required.) Sir John Macpherson stated
 in his pleadings, “ That the estate he had ac-
 “ quired from the noble Duke yielded 16s. 8d.
 “ a year, and that he had purchased it at a fair

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“and adequate price,” not saying what it was, and “that it was for the express and special purpose of enabling him to vote for a member of parliament.” Now, although he admitted it was for the purpose of enabling him to vote for a member of parliament, yet, if it was a real estate, the decision of this House would not interfere with it solely on that ground. That was his object. Had it not given him that right, he probably would never have acquired it; and were that right taken away, he would care very little what became of the superiority. He nevertheless maintained, and that he might maintain with good effect, “that a life-rent superiority afforded a good freehold qualification; and that his titles were not nominal or fictitious, because he was possessed of every thing they contained.” But the law of Scotland, as declared by the authority of this House, is, that the conveyances are to be not only clear, but sincere.

The Lords of Session found that it was incompetent to put the question to the Respondent, proposed by the complainers; but they did not stop here, for they repelled the objection of nominal and fictitious to the Respondent’s qualification, and therefore dismissed the complaint, assailed the Respondent, and decerned.

In that case, the appeal to this House was on two grounds. First, it was said that the Court ought to have put those questions; but, secondly, that if the Court did not put those questions, the circumstances of the case were sufficient to shew that those estates were nominal and fictitious. Upon the decision in this House, though

Lord Thurlow stated that honorary obligation would destroy the right, he, nevertheless, in the conclusion of what he states, beseeches the House not to come to a hasty conclusion of the matter; that he would wish to know every thing which could be known upon the subject; and instead of deciding on the circumstances of the case as they appeared in the transactions between the Duke of Gordon and those voters, he sent the case back again to examine the parties; and it turned out that he had prophesied very truly. For Sir John Macpherson would not take the oath proposed to be administered, and he refusing to take that oath, his estate was held to be nominal and fictitious. If he had taken the oath, (as I understand Lord Thurlow,) it would then have been reserved for the Court to have considered the effect of his oath; but his silence was deemed a confession, and he was therefore struck off the roll.

The question, then, I apprehend to be, whether the case of Macpherson is to be taken as an authority for what the Judges of the Court of Session have done in the present cases. It is not my intention to go through all the circumstances of the present cases, and to consider the effect of Lord Eglinton's proposal to create nine voters; his proposing for one Mr. Martin, his agent; and another, Mr. Simpson, the partner of that agent; and for a third, Mr. Crichton, his agent, at Irvine. There is not, in the case of Mr. Martin, evidence that would satisfy me, that his was not a real estate, provided he would deny that which would

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affect his estate ; and looking at all the correspondence that passed with Hugh Crawford, the correspondence that passed with M^cKnight Crawford, through Hugh Crawford, and his whole correspondence ; looking at the correspondence which passed with Geddes, and with M^cKerrell ; looking at the correspondence which passed with Dr. Donaldson the physician ; looking at that correspondence which I must look at, if I *can consider it as evidence at all*, with infinite caution, I mean the correspondence with Mr. Martin, and through him, Mr. Simpson, and the communication to Mr. Crichton—the agents having possibly very different purposes from those of the Earl, who proposed to sell ; looking at the voluntary increase of price, (which I confess I do not wonder at, in these writers of the signet, and if I were purchasing an independent vote, I had rather have given more for it, than any of those persons had given. You might call that my motive to meet a popular prejudice, or my motive to meet the judicial inferences that would be raised in the House of Lords, as to the motive of the conveyance, because I had not given enough for it ;) yet if the parties sincerely believed that the Earl of Eglinton was offering independent votes, and purchased accordingly, they would not be destroyed by such circumstances. I do not pass over here, the fact that the votes were created out of dormant titles. That acts both ways. The Earl of Eglinton had dormant titles, and it is stated that he had formerly created votes, which he could not support. There is no evidence to the fact : but

taking it to be so; am I to suppose that the Earl of Eglinton, if examined as a witness, would state, that instead of that which he professed to be his purpose; namely, the making independent votes, he had no such purpose; that it was all simulation—am I to suppose, that in a case in which his Lordship acted with the advice of such a man as Mr. Cranstoun, who appears to have been his adviser, aided by persons of considerable professional skill, I mean the writers here spoken of, Mr. Russell, Mr. Anderson, and Mr. Martin, that he who had been foiled in his purpose before, of creating fictitious votes, was really endeavouring, in contradiction to all that was stated by him, in contradiction to all that is stated by those who are dealing with him, and in contradiction to what they voluntarily undertake to swear, wishing to examine him as well as themselves—am I, notwithstanding all these circumstances, to understand, that in this second attempt, he was endeavouring to do the same nugatory thing, which he had formerly attempted, but failed to accomplish.

I do not go through every observation which may be made upon every part of this case, but I say again, that the case of Mr. M'Knight Crawford teaches me to deal with infinite judicial jealousy, with the question how far I am to cut down an estate, which upon the title deeds is clear, and which the parties aver is sincere, as well as clear by inferences and implications, from the acts of other persons. Inferences and implications were raised in the case of Mr. M'Knight

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Crawford, with almost, or quite as much force, as in the case of these Respondents. But all these inferences and implications were proved to be unfounded, even in the judgment of the Court of Session in Scotland.

We are here upon an infinitely delicate subject. I agree the objection is founded, if the estate can be shown from circumstances, from the refusal of the party to be examined upon interrogatories, or from his deficient answer to those interrogatories, to be an estate not given to him for his own use and benefit, to be used by him as he shall think proper. But I follow Lord Thurlow in opinion, that if the grantee shall, from the obligation of gratitude, act in the same interest as his friend the grantor, that is no objection. Where a father gives to his son a qualification; where an uncle gives to his nephew a qualification; where a brother gives to a brother a qualification; it is very difficult to suppose that the qualification is given by the father, uncle, or brother, without conceiving that, in the one instance, filial affection, and in the other instances, the affections resulting from those relationships, will induce the party to vote in the same interest, with his relative and patron. But authorities cited in argument prove that there must be something further; that you must make out that there is this understanding between the parties. How far that rule is to be carried, is a consideration which led me to submit to this House, in the case of *Fleming v. Drummond*,* the

* June 25, and July 11, 1810. D. P. July 23, 1811. Bell, p. 303.

propriety of remitting the case to the Court of Session; and I expressed a very strong wish, that, if they sustained their first opinion, they would do that which they have often done most usefully to the King's subjects, embody, in their decision, the reasons for that decision.

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It is my purpose to propose that this case should be remitted, very much in the terms in which that case of Fleming *v.* Drummond, was remitted. If the Court of Session shall be of opinion, after the examination, that they cannot come to the same conclusion as in the case of M'Knight Crawford, I again respectfully express to them my wish, that they would embody in their interlocutor the reason upon which they proceed. The authority of this Court, as established in Macpherson's case, must not be shaken. To the extent of that case, the law is settled; but the doctrine, if pressed beyond that authority, may be attended with grievous consequence. Suppose I have a whole fee which I could contrive to vest in the noble Lord who sits near me, and he might create out of that a dozen votes; if I should happen to say, I know your political principles; we have gone through life's journey together, acting very much in the same way with respect to what we conceived to be the public interest, and I had rather you should have that estate for 5,000*l.* than some men, whose private character I revere, and whose conduct I estimate very highly, for double the money: will it be said, because I make a foolish pecuniary bargain, (if that is the real case,) and I am at liberty in this view to make the hypothesis—that my impru-

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dence, caprice, or policy, is to destroy the estate thus created? and this may be diversified in a number of modes. Upon the whole, therefore, I cannot come to such a conclusion as Lord Thurlow contemplated, in the case of M'Pherson; namely, that these estates were intended, between the Earl of Eglinton and these grantees, to be at the use and disposition of the Earl of Eglinton; or that the case, as it now stands before me, affords circumstances sufficient *fairly and roundly to raise that presumption in an unanswerable degree.* I should have said exactly the same, if the case of M'Knight Crawford had come here before it had been reviewed in the Court of Session, and before they had been convinced that their presumption was not raised in an unanswerable degree. Nor can I go to the length of saying, after what I have seen, in *Fleming v. Drummond*, and what I have seen in this case, that the circumstances do fairly and roundly raise a presumption in such a manner, that these parties cannot satisfactorily answer it. If I am right in saying the circumstances fall short of producing that degree of presumption, I conceive I have the authority of this House for saying, that they fall short of that ground, on which this House can be called upon to support the judgment, and that it is our duty to send it back again to the Court of Session, for revision, with liberty to examine the parties as in that case. If they shall be finally of opinion that these estates were nominal and fictitious, I again respectfully intimate my entreaty that they would state the grounds upon which they come to that finding.

With these observations, I purpose, after the

drawing out an order, something in the terms of that made in the former case of Fleming v. Drummond, to send this case back again to the Court of Session to be reviewed, and to examine the parties on interrogatories, in the four last appeals. But the final judgment in the case of Mr. M'Knight Crawford must be affirmed.

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In each of the four last appeals the following order was made :

“ Die Jovis, 11^o Februarii, 1819.

“ Ordered and adjudged, that the cause be re-
 “ mitted back to the Court of Session in Scotland
 “ to hear parties further thereupon, with liberty to
 “ receive such new allegations as the occasion may
 “ require, and with liberty for the Appellant to
 “ confess or deny such averments as to the alleged
 “ nominality, as the Respondents, by interroga-
 “ tories, according to the course of the Court,
 “ shall call upon him to confess or deny : And it
 “ is further ordered, that the Court do review the
 “ interlocutors appealed from, and determine,
 “ whether it is sufficiently established, that the
 “ freeholders of the County of Renfrew did right
 “ in refusing to admit the Appellant upon the
 “ roll, and also do determine, whether such fact
 “ shall be sufficiently established by what hath
 “ already been made to appear to the said Court,
 “ together with any such evidence or proof, as
 “ may be received or made, under such liberties
 “ as aforesaid.”

APPENDIX.

No. I. First Letter sent by the Earl of Eglinton, to the Persons whom he had selected as the Holders of his Freeholds.

Eglinton Castle, 2d February,
1815.

DEAR SIR,

Being determined to bring forward and dispose of some dormant freeholds in the county of Renfrew, I must naturally apply to those gentlemen who I consider my friends, and whom I already consider myself under obligations to. The plan I propose, after mature consideration and consultation with the first counsel at the bar, is as follows:—

That I am to convey the superiority of my own property lands to afford a freehold qualification in life-rent, with a feu-duty payable by me to the life-renter of 5*l.* sterling yearly. The price I receive will be the value of 5*l.* sterling upon the life of the person to whom this conveyance is made, conform to the most approved tables of annuities.

Should it be more agreeable to you to have a larger sum of feu-duty paid, (although it can make no difference to the title, and therefore appears quite unnecessary,) be so good as inform me what extent you would wish it, and I will take it into consideration. To save you trouble I herewith enclose a table for calculating the value of these freeholds.

(Signed) EGLINTON.

This letter was sent to the following Claimants, or their agents, viz.

1. Hugh Crawford, writer in Greenock.
2. By Hugh Crawford to William M'Knight Crawford of Cartsburn.

3. Humphrey Graham, W. S.
4. Francis Martin, writer, Paisley.
5. By him communicated to Alexander H. Simpson, his partner.
6. Fulton M'Kerrel, manufacturer, Paisley, and by him to his brother, John M'Kerrell, manufacturer there. John M'Kerrell is one of the Complainers; but Fulton M'Kerrell gave up his freehold, in order to make way for William M'Knight Crawford.
7. John Geddes, of the Verreville glass-works, Glasgow.
8. Communicated verbally to James Crichton, writer, Irvine, who, as his Lordship's agent at Irvine, corresponded with the other Complainers.
9. Communicated verbally to Dr. William Donaldson, physician in Ayr, as appears from a subsequent letter to him.

No. II. Second Circular, sent as above, and intitled on the back, "Lord Eglinton to the
 "different purchasers of Renfrewshire free-
 "holds, relative to the additional sum pro-
 "posed by Mr. Russell, W. S."

Eglinton Castle, 20th February,
1815.

DEAR SIR,

1815.

I have received a letter from Mr. Russell, with respect to the superiorities in Renfrewshire, which I am disposing of. He observes, "that although the superiorities are
 "meant to be disposed of for a price, without trust or con-
 "fidence, yet it may be right, in order to meet the popu-
 "lar prejudice, not to confine the price to the precise va-
 "lue of the life interest in the feu-duty. But to add
 "something to it, as for the freehold, such as from 20*l.* or
 "30*l.* to 50*l.* on each freehold." He likewise recommends, that the purchasers' own agents prepare the dispositions in their favour, and complete their title by infestment.

If either of these sums should be agreeable to you, to

add to what was mentioned formerly, a copy of the proper disposition will be sent by Mr. Martin, that you may give directions to your agents to extend it accordingly. I remain, dear Sir, your's faithfully,

(Signed) EGLINTON.

P. S. The same idea as mentioned by Mr. Russell had occurred to my friend, Mr. Humphrey Graham, W. S. who is a purchaser, and requested, that instead of paying the sum corresponding to his age in the table, which was 75*l.* that it should be made 100*l.*

Copies of the above wrote to the following gentlemen:— Colonel Geddes, Verreville, Glasgow: John M'Kerrell, Esq. Paisley; Hugh Crawford, writer, Greenock; Dr. Donaldson, Ayr.

LETTERS RELATING TO THE CASES OF MR. M'KNIGHT
CRAWFORD AND MR. HUGH CRAWFORD.

No. III. Excerpt from Letter, Lord Eglinton
to Hugh Crawford, Esquire, Writer in Greenock.

27th January, 1815.

After a long paragraph on a separate and private matter, his Lordship writes as to the freehold thus:—

I hope in a short time now to have my dormant freeholds in your county brought forward, and will be happy that you should have one of them. I believe you understand the footing on which they are to be sold,—for the life of the purchaser; and as to the sum to be paid, five pounds or fifty will make the freehold equally good. Will you have the goodness to write me on the subject? and hope you will have the goodness to purchase one of them. Few men will be more agreeable to me, being grateful for the friendly support I have received from you. I remain, &c.

No. IV. Excerpt from Letter, Mr. H. Crawford
to Lord Eglinton.

[Produced by Lord Eglinton.]

MY LORD,

Greenock, January 1815.

I feel very much honoured and obliged by your Lordship's polite information respecting the division of your Lordship's freeholds in this county, and I shall be most happy to become a purchaser of one of these life-rents, so soon as your Lordship shall have made the arrangements, and fixed a price. I have the honour to be, &c.

(Signed) HUGH CRAWFORD.

The Right Hon.
Earl of Eglinton, &c.

No. V. Hugh Crawford, Esquire, to Lord
Eglinton.

Greenock, 9th February,
1815.

MY LORD,

During my absence in Edinburgh, where I have been for a week, your Lordship's favour of the 2d arrived, containing the scheme upon which your Lordship is inclined to dispose of some freeholds in this country. I have attentively considered the scheme, and, in so far as I can judge, it has my hearty approbation. I beg leave, therefore, to mention that I shall readily become a life-rent purchaser from your Lordship of one of these freeholds. My age is between 52 and 54, so that I shall fall under the class of 56*l.* 7*s.*, and the money will be paid whenever, and in any manner, your Lordship may be pleased to signify. My friend, Mr. Crawford of Cartsburn, is very desirous of purchasing 180*l.* of valuation to join to his own extent, which is so much defective; but if that cannot be obtained, he will purchase a complete freehold, and upon the terms that your Lordship has pre-

scribed. May I be permitted to recommend Mr. Crawford to your Lordship's notice? I again beg leave to offer your Lordship my most respectful acknowledgments, for the repeated kindnesses which your Lordship has shown to me; and remain,

(Signed) HUGH CRAWFORD.

To the Right Hon.
the Earl of Eglinton, &c.

No. VI. Lord Eglinton to Hugh Crawford,
Esq.

Eglinton Castle, 11th February,

DEAR SIR,

1815.

I have to acknowledge the receipt of your letter of the 9th inst., and am glad that you are to become a purchaser of one of the freeholds.

It would have given me pleasure that I had it in my power to have accommodated your friend, Mr. Crawford of Cartsburn, by the valuation he wants, to make out a freehold, but I have it not. I will be happy, therefore, that he will purchase one of those on the terms I have been advised to propose; and, as you mention, that he will accept, I have wrote Mr. Martin to transmit his name to Mr. Russell, at Edinburgh, for that purpose, and I hope it is not yet too late. I shall be proud to have two such respectable purchasers as he and you. I have wrote Mr. Martin, therefore, in case the number is filled up, if possible to give a preference to Mr. Crawford, in the room of some other. Excuse this hurried note. I am, &c.

(Signed) EGLINTON.

Hugh Crawford, Esq.

Writer, Greenock.

P. S. I will be most happy to be honoured with the acquaintance of Mr. Crawford, and if you will be so good as to endeavour to prevail upon him to pay me a visit, and show him the way here, it will give me very great pleasure.

No. VII. Lord Eglinton to Mr. Martin.

(Private.)

SIR,

February 11, 1815.

In a letter which I have just received from Mr. Crawford of Greenock, he mentions that Mr. Crawford of Cartsburn is willing to purchase one of my votes. He, therefore, *privately*, is much more agreeable to me than young Mr. Robertson, who I wrote you of, yesterday. I beg, therefore, his name may be forwarded to Mr. Russell, which completes the number, being eight. I have time to add no more, but remain, &c.

(Signed) EGLINTON.

No. VIII. Hugh Crawford to William M'Knight Crawford.

Greenock, 13th February,
1815.

MY DEAR FRIEND,

I lost no time, upon my return, in writing to the Peer of Eglinton, and last night's post brought me a letter from his Lordship, which I now beg to transcribe:—

[Here Lord Eglinton's letter to Hugh Crawford, of 11th February, 1815, already printed No. VI. is inserted.]

This, you will say, is civil enough, and I hope soon to advise you that there is yet one open for your honour.

I trust that, in the course of this season, you will be able to run down the length of the Castle, taking another castle in your way.—I am, &c. ever yours affectionately,

(Signed) HUGH CRAWFORD.

No. IX. Lord Eglinton to Hugh Crawford.

Eglinton Castle, 12th February,
1815.

DEAR SIR,

Since writing you, I had received a letter from Mr. Fulton M'Kerrell, accepting of the terms offered for the purchase.

of one of the freeholds. He had made an application formerly upon the subject, but as I had not received an answer, I concluded that the terms were not agreeable to him. From his letter, however, I find that he has been from home, and as his application was prior, I am afraid he must be preferred. Perhaps, however, I may have an after one to offer to Mr. Crawford, which I will be happy to do. In the mean time, I hope that will not prevent me from having the pleasure of seeing you and him here, and to be honoured with his acquaintance. I remain, dear Sir, &c. (Signed) EGLINTON.

Hugh Crawford, Esq.
Writer, Greenock.

No. X. Mr. Hugh Crawford to Mr. M'Knight
Crawford.

Greenock, 14th February,
1815.

MY DEAR SIR,

Since writing yesterday, I last night had another letter from the Earl of Eglinton, dated the 12th, of which the following is a copy:—

[Here Lord Eglinton's Letter of 12th February, No. IX.
is inserted.]

I confess much disappointment at this last letter, as I really concluded that all was fixed. Before making any reply to these letters, I request to hear from you, and may I beg of you to do so on receipt, &c.

(Signed) HUGH CRAWFORD:

William M'Knight
Crawford, Esq.

No. XI. Mr. M'Knight Crawford to Hugh Crawford,
Esq.

MY DEAR SIR,

15th February, 1815.

I know no particular answer that can be given to the Peer's letter, but that I regret my application had not been

made sooner. If a sum of valuation to make up my title could be had at a reasonable expence (my own writings included), it would require only about 180*l.* Scots. Thank the Earl in my name for his wishes to serve me.

(Signed) W. M'KNIGHT CRAWFORD.

Hugh Crawford, Esq.

Writer, Greenock.

No. XII. H. Crawford, Esq. to Lord Eglinton.

Greenock, February 22,

MY LORD,

1815.

On my return last night from the interment of Mrs Crichton, I found your Lordship's favour of the 20th. The suggestion of Mr. Russell, I presume, is very proper, and I have no objection whatever to make a corresponding advance in the same way as Mr. Graham has done.

My class is that falling under the purchase of 56*l.* 7*s.*; so that if Mr. Graham (whose class is 75*l.*) advances 25*l.* mine will be in proportion. When convenient for your Lordship, you can direct Mr. Russell to correspond with my agent, Mr. Horne, W. S., who between them will do all matters properly. I regret very much that I had not the honour of paying my respects to your Lordship yesterday, as I returned home immediately after the interment. I have, &c.

(Signed)

HUGH CRAWFORD.

The Right Hon.

the Earl of Eglinton, &c.

No. XIII. The Earl of Eglinton to Hugh Crawford, Esq.

Eglinton Castle, 25th February,

DEAR SIR,

1815.

Mr. Martin is just now with me, and I find that I have still another freehold to dispose of in the county of Ren-

frew, upon the estate of Eastwood, which I am glad to have it in my power to offer to your friend, Mr. Crawford. If he will have the goodness to accept, I beg you will write to Messrs. Russell, Anderson, and Tod, mentioning his Christian name and age, without delay, in the hope that his disposition may be made out, along with the others, which I have given positive directions to be immediately completed. I will be glad to hear from you. Excuse this hurried letter, and believe me to be, &c.

(Signed) EGLINTON.

Hugh Crawford, Esq.
Writer, Greenock.

No. XIV.. Hugh Crawford to Lord Eglinton.

Greenock, February 27,
1815.

MY LORD,

I am this morning honoured by your Lordship's letter of the 25th, and have by this post transmitted a copy of it to Mr. Crawford, with a request that he may, with the least possible delay, inform Messrs. Anderson, Russell, and Tod, of his resolution. His residence (Ratho) is within seven miles of Edinburgh, and I trust my letter will find Mr. Crawford at home, in which case he will tomorrow write to, or wait on these gentlemen, and I shall not fail to communicate his answer to your Lordship.

I again beg your Lordship to accept my grateful acknowledgments for these repeated marks of attention; and I remain, with the greatest respect, &c.

(Signed) HUGH CRAWFORD.

[N. B. The letter to Mr. M'Knight Crawford, referred to in the above, was not produced.]

No. XV. Hugh Crawford to Messrs. J. and
D. Hornes and Easton, W. S.

Greenock, 4th March,
1815.

DEAR SIRS,

I have purchased from the Earl of Eglinton one of his Lordship's life-rent freeholds in the county of Renfrew, and he has suggested that my agents should draw the conveyance, and for this purpose it will be necessary that a meeting be had with the Earl's men of business, Messrs Anderson, Russell, and Tod, W. S.

Will you have the goodness immediately to see these gentlemen, and have all matters properly fixed. I am, &c.

(Signed) HUGH CRAWFORD.

Messrs. J. and D. Hornes
and Easton, W. S.

No. XVI. Messrs. Hornes and Easton, W. S.
to Hugh Crawford, Esquire, Writer, Greenock.

DEAR SIR,

6th March, 1815.

In consequence of your letter of the 4th received yesterday, we, to-day, waited on Messrs. Russell, Anderson, and Tod, the agents for the Earl of Eglinton, to receive the titles, and arrange respecting the conveyance of the freehold purchased by you from His Lordship; but we were told that the terms had not yet been agreed on between Mr. Martin of Paisley and you, and that nothing could be done here until that should take place. The only things we understood you had to fix were, the price and the feu-duty. When they heard of that being done, they were to let us know, and we shall of course lose no time in getting the conveyance prepared.

(Signed) J. and D. HORNES and EASTON.

To Hugh Crawford, Esq.
Writer, Greenock.

No. XVII. Mr. Francis Martin, Writer, Paisley,
to Hugh Crawford, Esq.

DEAR SIR,

7th March, 1815.

I inclose you a draft of a life-rent disposition by Lord Eglinton to you.

There is a blank left for the price. You can fill it up with any sum from 50*l.* upwards. The sum you insert regulates the feu-duty. You'll observe that twenty guineas is to be included for the value of the vote.

I request, after you have perused the draft and filled up the blank article, that you will send the deed to your agent, Mr. Horne, who will deliver it to Mr. Russell, W. S., that the description of the lands may be inserted; after which Mr. Horne will extend it, and then Mr. Russell will transmit the extended deed to be signed by his Lordship. I beg you'll get this done *as expeditiously as possible*. I am, &c.

(Signed) FRA. MARTIN.

Hugh Crawford, Esq.

Writer, Greenock.

No. XVIII. Mr. Crawford to Messrs. Hornes
and Easton.

Greenock, 8th March,

1815.

DEAR SIRS,

Prefixed you have copy of a letter received last night from Mr. Martin, and inclosed you have draft of the disposition which (agreeably to the table of the annuities and usage, I have inserted 56*l.* 7*s.*), as there is an immediate necessity for the business being arranged, I request you may, on receipt, wait on Mr. Anderson, and get the whole completed. I am, &c.

(Signed) HUGH CRAWFORD.

Messrs. J. and D. Hornes

and Easton, W. S.

No. XIX. Hugh Tod to James Horne.

DEAR SIR,

59, George Street,
11th March, 1815.

We have been favoured with your letter of the 9th instant, inclosing draft of a disposition by Lord Eglinton to Mr. H. Crawford, of the superiority, in life-rent, of certain lands in Renfrewshire, which, however, we delay revising, until the feu-right necessary for creating the vassalage shall be framed and completed. To enable us to do this, will you have the goodness to let me know, by the bearer, the feu-duty which Mr. Crawford has agreed to pay? I am, &c. for Messrs. Russell, Anderson, and Tod.

(Signed) HUGH TOD.

James Horne, Esq.

No. XX. Hugh Crawford to Messrs. Hornes and Easton.

DEAR SIRS,

Greenock, 15th March,
1815.

From your unusual silence of late, the writer of this is necessitated to refresh your memories, requesting you would, with your earliest conveniency, write him on the following cases, the life-rent freehold from the Earl of Eglinton. I am, &c.

(Signed) HUGH CRAWFORD.

Messrs. J. and D. Hornes
and Easton, W. S.

No. XXI. H. Tod to Messrs. Hornes and Easton.

DEAR SIR,

59, George Street, March 23,
1815.

I return you revised the draft of the disposition by Lord Eglinton, to Mr. Hugh Crawford, of the superiority

in Renfrewshire, and shall be glad if you can get it extended, and sent me to-morrow, in time to admit of its going west by the post of that evening. I am, gentlemen,

(Signed) H. TOD.

Messrs. Hornes and Easton,
W. S.

No. XXII. Messrs. Hornes and Easton to
Messrs. Russell, Anderson, and Tod.

24th March 1815.

We were this morning favoured with your letter of yesterday, returning the draft of the life-rent disposition, by the Earl of Eglinton to Mr. Crawford, revised, and we now, agreeable to your wishes, send it to you extended, that you may forward it by this night's post to his Lordship, for execution.

We presume the price is to be paid to you, and we shall be accordingly ready to do so. We are, &c.

(Signed) J. and D. HORNES and EASTON.

Messrs. Russell, Anderson,
and Tod.

No. XXIII. Messrs. Hornes and Easton to Hugh
Crawford, Esq. Writer, Greenock.

17 Heriot Row, 24th March, 1815.

We have now sent Messrs. Russell, Anderson, and Tod, the extended disposition, by the Earl of Eglinton, to you, to be forwarded to his Lordship for execution. We presume we should pay the price of the freehold to Messrs. Russell, Anderson, and Tod, when they return the disposition to us, signed, and we shall accordingly do so, unless we hear from you that it is to be settled otherwise. We are, &c.

(Signed) J. and D. HORNES and EASTON.

Hugh Crawford, Esq.
Writer, Greenock.

No. XXIV. Mr. Hugh Crawford to Messrs.
Hornes and Easton, W. S.

DEAR SIRS,

March 25, 1815.

I have been favoured with yours of yesterday. I am at a loss to say whether I am to remit Lord Eglinton the price, or pay it to his agents, Messrs. Russell, Anderson, and Tod; and upon the whole, I think you had better offer it to these gentlemen when you receive the titles, and draw on me through the Bank of Scotland.

(Signed) HUGH CRAWFORD.

J. and D. Hornes and Easton,
Esquires, W. S.

No. XXV. Hugh Tod, Esq. to Messrs. Hornes
and Easton, W. S.

DEAR SIRS,

59 George Street,
6th April, 1815.

I have received back the disposition by Lord Eglinton to Mr. Crawford, signed by his Lordship; and as you mentioned that you would be prepared to pay the price, I hope it will be convenient for you to settle to-morrow. If, however, you are anxious to get the infestment passed immediately, and are not in funds of Mr. Crawford's to pay the money, I shall, in the mean time, accept of your letter, declaring that it has not been paid, and engaging to do so within 10 days.

The Crown-charter, upon which the infestment must proceed, is in the hands of Mr. Francis Martin, writer in Paisley, who will readily give Mr. Crawford access to it when he wishes for it, for the purpose of getting the infestment passed. I remain, &c.

(Signed) HUGH TOD.

Messrs. Hornes and Easton,
W. S.

No. XXVI. Messrs. Hornes and Easton to H.
Crawford, Esq.

Heriot Row, 7th April,
1815.

We have now settled with Messrs. Russell, Anderson, and Tod, for your Renfrewshire freehold, and received the disposition, which we shall inclose. In the course of a day or two, we may value on you for a sum nearly equal to the price, being 56*l.* 7*s.* Should you wish us to prepare a draft of the infestment, or to look at any draft you may prepare, we shall be happy to do so. The Crown-charter is with Mr. Martin, who will lend it to you for this purpose. We are, &c.

(Signed) J. and D. HORNES and EASTON.
Hugh Crawford, Esq. Writer,
Greenock.

No. XXVII. Excerpt of Letter from Messrs.
Hornes and Easton, W. S. to Hugh Crawford
and Son.

DEAR SIR.

8th April, 1815.

We have now settled with Messrs. Russell, Anderson, and Tod, for your Renfrewshire freehold, and received the disposition, which we shall inclose. In the course of a day or two we may value on you for a sum nearly equal to the price, being 56*l.* 7*s.*

Should you want us to prepare a draft of the infestment, or to look at any draft thereof you may prepare, we shall be happy to do so. The Crown-charter is with Mr. Martin, who will lend it to you for this purpose, in which there should be no delay. And we are, &c.

No. XXVIII. Hugh Crawford, Esq. to Francis
Martin, Esq.

Greenock, 10th April, 1815.

DEAR SIR,

Inclosed I beg leave to hand you disposition in life-rent by the Earl of Eglinton in my favour, and as I presume you will have occasion to be in Eaglesham, on a similar business, I beg you may then get me infest also, and the sooner this may be accomplished the better.

Before extending the sasine, I beg you may submit the scroll to Messrs. Hornes and Easton, 17, Heriot Row, Edinburgh. I am, &c.

(Signed) HUGH CRAWFORD.

No. XXIX. F. Martin, Esq. to Hugh Crawford,
Esq.

DEAR SIR,

Paisley, 10th April, 1815.

I received yours this afternoon. I am to be at Eaglesham on Friday morning, and will then pass your infestment, along with some others, and shall afterwards send the draft to be revised as you desire. I am, &c.

(Signed) FRA. MARTIN.

Hugh Crawford, Esq. Writer,
Greenock.

Have you given orders for Cartsburn's disposition being extended *as it stands*, agreeable to the Earl's wish?

No. XXX. Hugh Crawford, Esq. to John
Dillon, Esq.

Greenock, 14th March, 1814.

DEAR SIR,

Our friend Mr. M. Crawford having completed the purchase of a freehold (life-rent) in this county from the Earl

of Eglinton, his agent, Mr. Martin, of Paisley, is very solicitous that the business be immediately completed.

It falls to you, as Mr. Crawford's man of business, to draw the disposition, and Mr. Crawford having by this post written to you to that effect, he has desired me to state to you, under what class in the scheme of valuations of lives Mr. Crawford falls. His age, between 29 and 30, makes the value of his life 74*l.* 9*s.*; will you therefore *immediately* wait on Messrs. Russell and Anderson, (the agents for the Earl,) and peruse the draft of the disposition, which can be filled up with the above sum, and then get it extended, so as no time may be lost in obtaining the Earl's signature, and afterwards Mr. Martin expedes all the infestments on the same day. I believe Mr. Anderson has Mr. C.'s name and designation; if not, you can give it, designing him *younger of Crawfordsburn*. I am, &c.

(Signed)

HUGH CRAWFORD.

John Dillon, Esq. Writer.

No. XXXI. Mr. M'K. Crawford to Lord Eglinton.

Cartsburn by Greenock,

4th March, 1815.

MY LORD,

Mr. Hugh Crawford hast just informed me that your Lordship has still a freehold in this country to dispose of, and that you was willing to let me have it. I shall be very happy to become the purchaser; and I have directed Mr. Crawford to write to your Lordship's man of business on that subject. I regret very much that owing to the shortness of my stay in this part of the country it is out of my power to accept of your invitation of being at Eglinton; and in the mean time, &c.

No. XXXII. Mr. Dillon to Mr. Hugh Crawford.

DEAR SIR,

March 15, 1815.

I have your letter of yesterday, and called upon Russell, Anderson, and Tod, when I saw the latter, who tells me he has the papers ready for signing by Lord Eglinton, which create a feu-right, previous to conveying the superiority; these, he said, he was to get signed to-day by Lord Eglinton, who is in town; after which they will be sent west for infestment. The one for Mr. C. contains a feu-duty of 5*l.* to be conveyed to him for his life, the value of which he desired me to calculate, which we have to pay, along with 21*l.* for the vote. I mentioned to him your calculation of 74*l.* 9*s.* which I suppose is the value of 5*l.* a year for the probable term of Mr. C.'s life. Please mention to me the number of years, and according to what table it is taken, that I may adjust the calculation to their mind. When the feu-right is completed by infestment, I will get from them the materials for a disposition to the superiority. I am, &c.

No. XXXIII. Hugh Crawford, Esq. to John Dillon, Esq.

Greenock, 17th March,
1815.

DEAR SIR,

Yesterday I had your favour of 15th, and, in answer, I beg to inclose you copy of the Earl's letter to me, with the schedule of the lives, which after having made your own use of, you can return to me. Mr. Crawford's age is thirty, so that you can be at no loss to fix the sum. I am, &c.

(Signed) HUGH CRAWFORD.

Mr. John Dillon,
Writer.

[In the above letter was inclosed a copy of Lord Eglinton's circular letter to his voters.]

No. XXXIV. Mr. Hugh Tod, W. S. to Mr.
John Dillon, Writer, Edinburgh.

59, George Street,
23d March, 1815.

DEAR SIR,

I return you revised the draft of the disposition by Lord Eglinton to Mr. M'Knight Crawford of the superiority in Renfrewshire, and should be glad if you could get it extended and sent to me in time to-morrow, to admit of its going west by the post of that evening. I am, &c.

(Signed) HUGH TOD.

Mr. John Dillon,
Writer.

No. XXXV. Hugh Crawford, Esq. to John
Dillon, Esq.

Greenock, 11th April,
1815.

DEAR SIR,

Yesterday I forwarded my life-rent disposition from the Earl of Eglinton to Francis Martin, writer, Paisley, in order that he might expedite my infestment. This morning I have a letter from him, acknowledging the receipt of that deed, and saying that he would be at Eaglesham on Friday, and then pass my infestment, along with some others. He then adds,—“Have you given orders for Cartsburn's disposition being extended *as it stands*, agreeable to the Earl's wish?” As I am unable to answer that query, and as the sooner Mr. Crawford is infest the better, I request you may get the disposition expedite, with the least possible delay. I have written to Mr. Martin to the above effect. I am, &c.

(Signed) H. CRAWFORD.

No. XXXVI. John Dillon, Esq. to Hugh Crawford, Esq.

Edinburgh, 12th April,
1815.

DEAR SIR,

I have your letter of yesterday. Mr. Crawford's disposition has been extended, signed, and delivered. On inquiry where I was to get the charter to expedite the infestment, Mr. Tod told me that it was lodged with Mr. Martin, in order that his Lordship's disponees might have access to it for that purpose. Accordingly, I yesterday dispatched the disposition, and a draft of the sasine, to Mr. Knox, with instructions, without delay, to get Mr. C. infest, and, for that purpose, to apply to Mr. Martin for the charter. Perhaps they may go together to the ground, and do the business at the same time. I am, &c.

(Signed) JOHN DILLON.

Mr. Hugh Crawford,
Writer, Greenock.

LETTERS RELATING TO THE CASE OF
HUMPHREY GRAHAM.

No. XXXVII. Lord Eglinton to H. Graham,
W. S.

Eglinton Castle, February 2,
1815.

DEAR SIR,

There are several dormant freeholds on my estate in Renfrewshire, which I want to dispose of to my particular friends, on the footing mentioned in the inclosed letter. If your father or you will have the goodness to purchase one of them, it will add to the favour and friendly attachment I have already received from you. There can be no doubt that these freeholds are unchallengable, and as in-

dependent as any in the kingdom, but of this you will be a perfect good judge yourself. I remain, &c.

(Signed) EGLINTON.

[This letter contained the general circular of 2d of February, 1815, No. I.]

No. XXXVIII. H. Graham, W. S. to Lord Eglinton.

Edinburgh, 6th February,

MY LORD,

1815.

Allow me to return your Lordship my most grateful thanks for the very polite offer of a life-rent freehold in Renfrewshire, contained in your letter of the 2d current. A purchase of this nature would not suit my father so well,—but as I have every desire to become a voter in that county, *if your Lordship will be so good as put a value on the life-rent qualification, as well as on the feu-duty*, I shall be happy to become a purchaser. The value of the annuity seems accurately calculated according to the government tables,—and a vote purchased in this manner must undoubtedly be as good as any in the kingdom. I have the honour to be, &c.

(Signed) HUMPHREY GRAHAM.

No. XXXIX. James Crichton, Writer, Irvine, Factor for Lord Eglinton, to H. Graham, W. S.

SIR,

Irvine, 9th Feb. 1815.

I am desired by the Earl of Eglinton to explain to you the value of the life-rent freeholds mentioned in his Lordship's letter to you of 2d inst. in answer to your letter of 6th.

You request, in that letter, the Earl to put a value on

the freehold. The value of the feu-duty being in the nature of an annuity on the life of the purchaser, you will find, according to the age, by the table sent, and this value is meant to be the price of that *feu-duty*, and *freehold* thereby given.

If this be satisfactory to you, you will have the goodness to mention it to Mr. Russell, who will make out the deed in your favours, and it will be obliging your dropping me a few lines, saying you have done so. I am, &c.

(Signed) JAMES CRICHTON.

No. XL. Mr. Graham's Answer to the above
Letter from Mr. Crichton.

Edinburgh, 11th February,
1815.

SIR,

I have, to-day, been favoured with yours of the 9th current. I was aware of Lord Eglinton's goodness in intending the qualification should be included in the price of the annuity. But as it undoubtedly possesses a value over and above whatever may be that of the annuity, I should wish to give what may be considered a fair price for it also. Say, therefore, that both together may be worth 100*l*. If this price be approved of, I shall apply immediately to Mr. Russel, so that the necessary deeds may be prepared as soon as possible. I remain, &c.

(Signed) HUMPHREY GRAHAM.

No. XLI. James Crichton, Esq. to H. Graham,
W. S.

SIR,

Irvine, 15th February, 1815.

I am favoured with yours of the 11th current, and have to observe, that though the sum only in the table sent you is exacted as the price of the annuity and freehold, and is calculated on Price's tables of annuities, as the value of the 5*l*. only, yet the same sum laid out to the best advantage in purchasing an annuity only, would

yield nearly one half more than the 5*l.* So that the difference may be considered as the value of the freehold. You can arrange the matter to your satisfaction, however, with Mr. Russell,—meantime, I am, &c.

(Signed) JAMES CRICHTON.

No. XLII. Lord Eglinton to H. Graham, W. S.

Eglinton Castle, 15th February,
1815.

DEAR SIR,

My wish is, that the purchase of the freehold may be made entirely to your pleasure. I am happy to have such a purchaser. If you will be so good, therefore, as take the trouble to communicate with Mr. Russell on the subject, the affair will be settled; and I am anxious that dispositions and conveyances may be made out, that the freeholds may be effective as soon as possible. Excuse this hurried note, and I remain, &c.

(Signed) EGLINTON.

No. XLIII. H. Graham, W. S. to George
Russell, Esq. W. S.

Edinburgh, 21st February,
1815.

DEAR SIR,

I have, within these few days, had some correspondence with Mr. Crichton at Irvine, relative to my purchasing from Lord Eglinton a life-rent vote in Renfrewshire, with a feu-duty attached of 5*l.* sterling, and I have been referred by him to you, in order to conclude the business. I made offer of 100*l.* for the feu-duty and vote together, of which, perhaps, about one-half may be considered the price of the annuity, as I should conceive myself entitled to not less than 10 *per cent.* on my life, and the remainder to be the value of the vote. If you agree with me in thinking this a fair price, I shall be glad to have it concluded as soon as possible. I remain, &c.

(Signed) HUMPHREY GRAHAM.

No. XLIV. Lord Eglinton to H. Graham, W. S.

Eglinton Castle, 25th February,

DEAR SIR,

1815.

I am so much hurried to-day, that I have only time to say in answer to your letter to Messrs. Russell, Anderson, and Tod, on the purchase of the Renfrewshire freehold, which they sent me, that I heartily agree to its being done in the way you propose. It is my wish that the matter should be made quite agreeable to you and the purchasers, and you are entitled to have it done so. Pray remember me kindly to your father. And I remain, &c.

(Signed) EGLINTON.

No. XLV. George Russell, Esq. W. S. to H. Graham, W. S.

Edinburgh, 27th February,

DEAR SIR,

1815.

I have Lord Eglinton's instructions to accept the offer contained in your letter to me of the 21st instant, and hope soon to be able to send you the necessary papers for completing the transaction. I am, &c.

(Signed) GEORGE RUSSELL.

No. XLVI. Hugh Tod, Esq. W. S. to H. Graham, W. S.

59, George-Street, 23d March,

DEAR SIR,

1815.

We delayed handing you the writs necessary to enable you to prepare the draft of the disposition to the freehold in Renfrewshire, purchased from Lord Eglinton, until a vassalage was completed, and that being now done, I request you will take the earliest opportunity of framing and sending, for our revisal, a draft of the disposition to the superiority, in the terms mentioned in your offer. I

cannot conveniently part with the charter, but it shall be shown to you before the transaction is completed, and, in the mean time, I annex a note of the description of the lands. I shall also satisfy you afterwards, that these extend to the valuation necessary. To save us both some trouble, I send you the draft of a similar disposition, which I beg you will return.

No. XLVII. Hugh Tod, Esq. W. S. to H. Graham, W. S. also dated 59, George Street, 23d March, 1815.

DEAR SIR,

With reference to my letter in the early part of the day, I have now to trouble you with the Crown-charter in favour of Lord Eglinton, among others, of the superiority of the lands which is to be conveyed to you, and also a certificate of the valuation of his Lordship's property lands in the county of Renfrew, both of which I hope you will return me early to-morrow. I am, &c.

(Signed) HUGH TOD.

No. XLVIII. H. Graham, W. S. to Hugh Tod, W. S.

Edinburgh, 24th March,
1815.

DEAR SIR,

I am this morning favoured with yours of the 23d, accompanying the Prince's charter in Lord Eglinton's favour, and certificate of valuation of his Lordship's lands in Renfrewshire. I return you herewith these writings, with the draft disposition you were so good as send me. I have prepared a draft disposition of the freehold purchased by me, which I enclose for your revisal, and shall be glad how soon it be returned to be extended. It will be proper, at the same time, that I see the feu-rights of the lands disposed.

LETTERS RELATING TO THE CASE OF JOHN
M'KERRELL, MANUFACTURER, PAISLEY.

No. XLIX. Fulton M'Kerrell to Lord Eglinton.

MY LORD,

Paisley, 10th February, 1815.

On my return from Ayrshire, where I have been for a few days, I have the honour of receiving your letter of the 2d instant. Permit me to express how sensible I am of the very handsome manner in which you are pleased to offer me a freehold qualification in this county. At the same time I have to state to your Lordship, that when I made application on this subject to Mr. Robertson at Irvine, it was for my brother John M'Kerrell of this place, as well as for myself, and to whom, I am persuaded, you will feel equally friendly disposed. If, therefore, you have not already completed your number, I hope we may both be included. If, however, it should unfortunately prove otherwise, and although I am very anxious for a vote, yet I feel I should not act properly by my brother; considering that I undertook to apply for him at the time I did for myself, if I did not yield the qualification to him. To this arrangement, should it prove inconvenient for you to accommodate us both, I trust you will have no objection. I have noted below my brother's age, as well as my own.

With regard to the sum of feu-duty to be paid, it is perfectly the same to us, and may be made whatever is agreeable to your Lordship. I have the honour to be, &c.

(Signed) FULTON M'KERRELL.

The Right Hon.
the Earl of Eglinton, &c.

[The letter of which M'Kerrell here acknowledges the receipt, is the general circular, 2d February, No. 1.]

John M'Kerrell completed his 56th year Aug. 31, 1814.

Fulton M'Kerrell ditto 45th ditto 17th September, 1814.

No. L. Alexander M'Lean (Lord Eglinton's Secretary) to Francis Martin.

Eglinton Castle, 11th February,
1815.

SIR,

Lord Eglinton wrote you to-day, requesting that you would transmit Mr. Crawford of Cartsburn's name to Mr. Russell, for a freehold in Renfrewshire. His Lordship has, however, by this night's post, received an answer to his letter to Mr. M'Kerrell, of which I inclose you a copy. His Lordship desires me to say, that he is most anxious, if possible, to accommodate the Mr. M'Kerrells, and requests that you will, in the mean time, delay transmitting Mr. Crawford's name, although he is equally anxious to have him as a purchaser.

Perhaps it may not be an object of much consequence to Mr. Simpson *at this time* to get upon the roll; if he could, therefore, withdraw his claim till the Eastwood votes are made effective, it would, I think, be agreeable to His Lordship. I am, &c.

(Signed) ALEX. M'LEAN, Secretary.

Lord Eglinton will write you himself soon.

Mr. Martin, Writer, Paisley.

No. LI. Lord Eglinton to Francis Martin.

Eglinton Castle, 12th February,
1815.

SIR,

Mr. M'Lean, at my desire, sent you a copy of Mr. M'Kerrell's letter by last night's post. It is very unfortunate that I did not receive this letter sooner, as I should have been anxious to accommodate these two gentlemen, and to have had them for purchasers. I scarcely know what can be done. One of them, however, must have a preference to Mr. Crawford of Cartsburn, and I will write his friend, Mr. Hugh Crawford, on the subject, Mr. M'Kerrell having the undoubted right, from having first

applied. I know no way of accommodating the brothers, but by soliciting either your friend Mr. Simpson, or Mr. Crichton, to resign their claim, and it will be doing me a particular favour; if one or other of them should be good enough to do it. May not another vote afterwards be made out upon Eastwood, which may be given in lieu of the one given up? I have some reason, upon enquiry, to believe that I am superior of John Govan's Mains of Eastwood.

I request your answer as soon as possible. If you have wrote to Mr. Russell, it will be proper that you write him again, that a more correct list will be sent him. I mean to be in Edinburgh myself this day se'nnight, when I will get this and other business arranged. I am, &c.

(Signed) EGLINTON.

Mr. Martin, Writer,
Paisley.

No. LII. Lord Eglinton to Fulton M'Kerrell.

Eglinton Castle, Feb. 18,
1815.

DEAR SIR,

I have a thousand apologies to offer you, for not having answered your letter sooner; but being engaged in some very interesting business, I hope you will accept as my apology.

I very much regret that, from prior engagements, it will not be in my power to give a freehold to your brother. Had I known at first, I would have been most happy to have given a preference to you, to most others on the list.

I hope, when your brother and you come to this country, that you will not pass this house, for, I assure you, nobody will be more happy to see you, or make you more welcome. I am, &c.

(Signed) EGLINTON.

Fulton M'Kerrell, Esq.
Paisley.

No. LIII. Mr. Martin to Lord Eglinton.

MY LORD,

Paisley, 13th Feb. 1815.

I have the honour of your Lordship's different letters respecting the freehold qualifications in this county. It is my intention to be in Edinburgh on Wednesday, where I shall remain for several days, during which I shall be frequently with Mr. Russell, and shall endeavour to bring west with me the dispositions, so far as they can be got finished.

In the list of names which your Lordship has transmitted me, I do not find the *ages* of the several gentlemen; Mr. Russell will of course be unable to fill up the *sums* until this is known. Your Lordship has not signified your pleasure with regard to the feu-duties. I therefore take it for granted that you have fixed upon 5*l.* to go with each vote, in which case the price will be regulated by the age entirely.

With respect to Messrs. M'Kerrells' application, I was quite aware of Mr. Fulton M'Kerrell's intention as to his brother John, and I knew also that he wished for a vote himself; but I fear that *he cannot put his vote in action so long as he holds his present situation of distributor of stamps for the district.* Perhaps he may have some arrangements in view respecting it, but it is right for me to apprise your Lordship of his situation; in case I might be reflected on afterwards.

I shall be happy to have the honour of a letter from your Lordship while I am in Edinburgh, with information as to the particulars above stated, in which case I shall be able to bring the dispositions with me. I have the honour to be, &c.

(Signed) FRA. MARTIN.

LETTERS RELATING TO THE CASE OF MR.
GEDDES.

No. LIV. Lord Eglinton to Colonel Geddes.

Eglinton Castle, February 22,
1815.

DEAR COLONEL,

The enclosed is a circular which I have sent to several of my friends, who appear willing to purchase the freeholds which at present are dormant in your county. When I had the pleasure of seeing you at Eaglesham, you flattered me by saying that you would purchase one of them. I will take it as a particular favour if you will do so. If the footing they are put upon is not agreeable to you, I will be glad to make it in the way most agreeable to you. As it stands at present, it is according to the opinion I had at Edinburgh from Mr. Cranstoun and other professional gentlemen there.

I beg you will accept of my warmest thanks for the many instances of attention and friendship I have received from you, which shall be ever remembered with heartfelt gratitude. Yours, &c.

(Signed) EGLINTON.

[The letter here referred to is the general circular, No. I.]

No. LV. Colonel Geddes to Lord Eglinton.

Verreville, February 3,
1815.

MY DEAR LORD,

I am honoured by your Lordship's obliging communication of the 2d instant, and will readily purchase a life-rent qualification in the county of Renfrew, upon the terms mentioned in your Lordship's letter.

Your Lordship will be so kind as desire the proper deed to be prepared, and I shall at once pay the price, agree-

able to the table sent me, estimating my age at 56, which it is: I have the honour to be, &c.

(Signed) JOHN GEDDES.

No. LVI. Colonel Geddes to Lord Eglinton.

Verreville, February 22,

MY DEAR LORD,

1815.

I am honoured with your Lordship's favour of the 20th instant, and cheerfully agree to the proposal there made.

Your Lordship's agent can send the draft of the disposition, and I will direct my agent here to complete the same, and to take the infestment, and the sooner the better. The money is ready. I have the honour to be, &c.

(Signed) JOHN GEDDES.

No. LVII. Mr. Simpson to Mr. J. Geddes.

DEAR SIR,

May 26, 1815.

I am this evening favoured with your letter to Mr. Martin, relative to your freehold qualification in Renfrewshire. Mr. Martin is at present from home; but I beg to inform you that your infestment was passed nearly six weeks ago, and the instrument of sasine was immediately afterwards sent to the registration office, to be recorded. It has not yet been returned to us, but we expect it, along with the others, in about a week. I am, &c.

(Signed) A. H. SIMPSON.

For Mr. Martin and Self.

John Geddes, Esq. Verreville,
Glasgow.

No. LVIII. John Geddes, Esq. to Martin and Simpson.

1815.

April 14. Going to Eaglesham, and infesting
you in lands there, on life-rent

disposition, by the Earl of Eglington, in your favour, and drawing Latin instrument of sasine; six sheets	l.	s.	d.
	4	4	0
Instrument-money	0	2	6
Paid your proportion of chaise hire and travelling charges	0	9	0
Paid for stamped vellum	0	11	6
Paid extending same	0	10	6
April 26. Paid carriage of sasine to Glasgow ..	0	0	3
May 25. Paid postage from you	0	0	4
Writing and booking letter to you in answer	0	3	4
31. Paid postage from you	0	0	4
June 13. Paid for recording your infestment ..	1	2	6
	<hr/>		
	7	4	3
Drawing the life-rent disposition, and transmitting it to you for revisal ..	1	1	0
	<hr/>		
	8	5	3
	<hr/>		

13th October, 1815.—By cash in full.

(Signed) MARTIN and SIMPSON.

LETTERS, &c. RELATING TO ALL THE CASES
PRODUCED BY LORD EGLINTON AND HIS
AGENTS.

No. LIX. Deposition of Lord Eglington.

Before Archibald Bell, Esq. Sheriff-depute of the county
of Ayr, &c.

N. B. The first part of this document relates to letters set forth in this Appendix, and produced by Lord Eglington as a haver. The document concludes thus:—

The commissioner, on considering the terms of the commission, conceives that it does not include the private correspondence between his Lordship and his own

agents; and, therefore, that his Lordship is not obliged to produce the same. And all the letters or copies of letters above produced are marked by the deponent and commissioner as relative hereto; and depones, That he has not willfully put away or concealed any documents which might be called for under this commission, nor does he know that any such are in any other person's possession. All which is truth, &c.

No. LX. Letter from Mr. Robertson, Lord Eglington's Factor, to Mr. F. Martin—inclosed in the above.

Bower Lodge, January 20,
1816.

DEAR SIR,

On the subject of the freeholds, I have the Earl's authority to say, that 250*l.* may be fixed on as the price of each, with a life-rent annuity corresponding to this sum, according to the respective ages of the different parties.

Of that you have already a scale, and I should suppose, in the first place, that a scroll of a disposition might be made out on some one particular life (say your own), and this by Messrs. Russell, Anderson, and Tod, and sent out by them to the Earl, after which his Lordship would cause it to be signified to his different friends, who, if they agreed to it, the whole might be gone into without more delay. I am, &c.

(Signed)

GEO. ROBERTSON.

Francis Martin, Esq. Writer,
Paisley.

No. LXI. Mr. Francis Martin, Writer in Paisley, to Messrs. Russell, Anderson, and Tod, W. S. Edinburgh.

GENTLEMEN,

Paisley, 24th January, 1815.

On the preceding page I send you a letter which I received from Mr. Robertson, under cover from his Lordship.

You will please make out the draft of a disposition in my favour, to as much superiority as give a vote. I should prefer it upon Eastwood, if agreeable.

My age is 41, and the annuity corresponding to this is 7*l.* 10*s.* *per cent. per annum* upon my life.

I believe you have the scale made out by Mr. Robertson; but in case you have not, I enclose you the copy sent to me. As the Earl is desirous to have the votes immediately created, I shall be extremely obliged by your writing me when the draft of the disposition has been sent to him. I am, &c.

No. LXII. George Russell, Esq. to Francis
Martin, Esq.

Edinburgh, 26th January, 1815.

I was yesterday favoured with your letter of the 24th instant, and by this post I send to Lord Eglinton drafts of the dispositions relative to the freeholds he meant to dispose of in Renfrewshire, together with a memorandum, stating what has occurred to me on the subject, and in consequence of which I have no doubt that you will be immediately sent to for your assistance in the business.

No. LXIII. Mr. Martin to Lord Eglinton.

Paisley, 4th February,
1815.

MY LORD

I have the honour of acknowledging receipt of your Lordship's letter of the 2d current, and beg leave to return your Lordship my most grateful thanks for the confidence you have been pleased to repose in me.

The possession in a freehold in the county of Renfrewshire is highly flattering to me, and it is no less gratifying to my feelings, *the idea that it will afford me an opportunity of promoting your Lordship's political interest in this quarter*, which has hitherto remained inactive.

I am quite satisfied of the legality, as well as the independence of the freehold votes your Lordship intends to create, and I have no objections, if it meets with your Lordship's approbation, to pay for an increase of the feuduty proposed to be given with each vote, according to the table transmitted to me, so as to make the amount 15*l.* or 20*l. per annum*; but this entirely as your Lordship shall consider proper.

My age is 41; Mr. Russell can therefore regulate the price by the table accordingly. I have the draft of a disposition, which came under your Lordship's cover to me two days ago, accompanied with Mr. Russell's notes, which I shall take the liberty of returning to him, if your Lordship does not require it to be transmitted to you.

It appears to be Mr. Russell's opinion, that the calculation of the valuations of the different freeholds is rather too close. No doubt, they are as near to the legal amount as it is possible to make them; but as the valuations are accurately taken from the cess-books, *it would be a pity to extend the amount of each vote far beyond the legal quantity, so as to make a sacrifice of a vote, if it is possible to save it.*

Eaglesham affords eight qualifications, including the old retours on Floors, and leaves a surplus of	169	1	2
Eastwood, after deducting 11 <i>l.</i> 13 <i>s.</i> 6 <i>d.</i> thrown into one of Eaglesham votes, extends to	608	6	6

Amounting together to	777	7	8
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which is within 33*l.* of making two votes more; and if your Lordship is superior of John Givan's Mains of Eastwood, it stands valued at 73*l.* 6*s.* 8*d.* which is sufficient to make up the vote. I do not know how this stands, but Mr. Russell will perhaps know. If your Lordship is not superior of Mains, then the spare valuations may be divided as he proposes, because it is insufficient to make a vote of itself; but if it is very near that, I think it prac-

licable, for the necessary quantity to complete it, to be obtained from some proprietors in the 'county, in which case *your Lordship would be able to create ten votes in all*, besides the two already held by General and Mr. Montgomerie.

As soon as your Lordship has fixed upon the names of the voters, I shall furnish Mr. Russell with the descriptions for each, as he requires in his notes.

I took the liberty of mentioning to Mr. Robertson, on a former occasion, the wish of my partner, Mr. Simpson, to hold one of your Lordship's votes; *I think I can safely pledge myself for his attachment to your Lordship's interest*, and I beg leave most respectfully to recommend his application to your Lordship's consideration. I have the honour to be, &c.

(Signed) FRA. MARTIN.

No. LXIV. Francis Martin, Esq. to George Russell, Esq.

Paisley, 7th February,
1815.

DEAR SIR,

Along with this you will please receive a new cast and description of My Lord Eglinton's lands in Eaglesham parish, the superiority of which is to be conveyed in life-rent, as formerly proposed. This cast affords eight votes, including the retour of Floors.

I also enclose you in this packet the draft of one of the life-rent dispositions, which I presume is correct. But in a letter from his Lordship to me, of date the second current, he says, "I am to convey the superiority of my own
" property lands, to afford a freehold qualification in life-
" rent, with a feu duty, payable by me to the life-renter,
" of 5*l.* sterling yearly. The price I receive, will be the
" value of the 5*l.* upon the life of the person to whom this
" conveyance is made, conform to the most approved ta-
" bles of annuities." He afterwards adds: "Should it
" be more agreeable to you to have a larger sum of feu-

“ duty, although it can make no difference to the title, “ and, therefore; appears quite unnecessary,) be so good as “ to inform me to what extent you would wish it, and I “ will take it into consideration.” Now will it not be necessary to take notice of the feu-duty in the disposition? The sums will vary according as the disponees purchase a greater or less quantity of feu-duty. The particulars of which, and the names of the disponees, will most likely be transmitted to you by his Lordship this week.

I also enclose you the draft of the disposition for separating the property from the superiority, which is to *be filled up in your favour.*

As his Lordship has expressed his anxiety to get the votes made effectual as soon as possible, I trust you will get the disposition expedite at your earliest conveniency.

I have not kept any copy of the valuation of Eastwood, but you have the certificate from the cess-books, which will enable you to describe the lands when you come to convey them. I may observe, however, that many of the possessions are now in the hands of other persons than those who are stated as the possessors when the valuations were split in the cess-books; but I presume this will make no difference in the description now, if the words “ as some time possessed by,” are used. I am, &c.

No. LXV. Lord Eglinton to Mr. Martin.

Eglinton Castle, 14th February,

SIR,

1815.

Being most anxious to have the Renfrewshire freeholds completed as soon as possible, I do not delay a moment answering your letter of yesterday. I thought that it had been understood that I had fixed upon 5*l.* to go with each vote, so that the price will be regulated by the table; the names and ages only wanted, which I will now fill up as far as I can. Colonel Geddes, 56 years past.—Hugh Crawford, Esq. writer, Greenock, returns himself between the age of 52 and 54.—John M'Kerrell concluded his 56th

year the August 1814.—William Donaldson, Esq. physician in Ayr, 36 years.—James Crichton, 43.—Yourself and your partner you can fill up, and I request you will call upon Mr. Humphrey Graham, W. S. who I have every reason to believe will be a purchaser, and who will inform you of his age, which completes the number, eight.

You will observe by this that I still give a preference to your partner, Mr. Simpson, and, upon consideration, I think it but fair, as, in fact, I knew only at the time of one of the M'Kerrells. This, I hope, will finish the transaction; at all events, the sums need not delay the making out the dispositions and conveyances, so that the gentlemen may be infest without delay, and I trust that this may be done before the Exchequer term rises. I have not time to write Mr. Russell, but request you will be so good as to read him this letter. Upon reading your letter over again, I am glad to observe you say that you will be able to bring the disposition with you. I am, &c.

(Signed) EGLINTON.

No. LXVI. Mr. Martin to Lord Eglinton.

Paisley, 20th February,
1815.

MY LORD,

I had the honour of your Lordship's letter of the 14th current, when in Edinburgh, and as it appeared to me to contain all the information requisite, I devoted part of two days in arranging the descriptions of the several parcels of land with Mr Tod, preparatory to the drawing of the dispositions.

After finishing this, however, I found that both Mr. Russell and Mr. Tod had some difficulties to remove, which they requested I would state in a *personal conversation* with your Lordship, *as it would be improper to commit them to writing*, and that I should wait upon you for that purpose. It occurs to me that I can state what was said to me to Mr. Robertson, at Eaglesham, this week, who can report to your Lordship on his return to

Eglinton Castle. But if your Lordship should think it necessary for me to wait on you for the purpose myself, I shall accompany Mr. Robertson from Eaglesham, on hearing from your Lordship previous.

I beg to return your Lordship my grateful thanks for the preference which you have shewn to Mr. Simpson, in the list you did me the honour to transmit me, and have the honour to be, &c.

(Signed) FRA. MARTIN.

No. LXVII. Francis Martin, Esq. to George Russell, Esq.

Eglinton Castle, 24th February,
1815.

DEAR SIR,

I have, this afternoon, had the honour of an interview with my Lord Eglinton. The alteration of the feu-duties in the dispositions intended to be granted by his Lordship of the superiorities in Renfrewshire has been agreed to by the gentlemen to whom they are to be granted, and I am directed by his Lordship to send draughts of the dispositions, leaving blanks for the price and feu-duties, to the several gentlemen interested, to be filled up by their agents, his Lordship being desirous to make the matter quite agreeable to all of them. I shall, therefore, on my return home to-morrow, transmit the scrolls accordingly, leaving the description of the lands also blank, as this will fall to be filled up by you, from the arrangement made with Mr. Tod when I was in Edinburgh; after which they can immediately be returned to me, that they may be put into the gentlemen's hands, to get extended by their agents.

In the meantime, it will be proper for you to go on with the trust disposition to the feus of the different lands, preparatory to the execution of the feu-dispositions.

His Lordship desires me to say, that he accepts of Mr. Graham's offer, and he requests that you will be so good as mention so to him; and now, that there appears to be

nothing in the way of getting matters brought to a speedy termination, he hopes that you will forward the dispositions, so far as depends on you, without delay, and am, &c.

(Signed) FRA. MARTIN.

No. LXVIII. Francis Martin, Esq. to George Russell, Esq.

Eglinton Castle, 25th February,

DEAR SIR,

1815.

Upon perusing the two precepts of *clare*, lately granted by the Earl of Eglinton, in favour of Mr. Brown of Nether Borland, and John Mather in Muirhouse, I find that the lands of Nether Borland are described as being a ten-shilling land of *old extent*, and Muirhouse a twenty-six shilling land of *old extent*; but I can discover no retour of these lands, although certainly one must be. If any retour could be found of these lands, there is a retour of the ten-shilling land of old extent of Windhill, which would be sufficient to make up another vote in Renfrewshire. May I take the liberty of requesting that you will be so obliging as write me on the subject as soon as possible?

Besides the eight votes upon Eaglesham, there is superiority sufficient for another upon Eastwood, which my Lord Eglinton has also signified his intention to dispose of. I do not know the amount of the feu-duties payable to his Lordship on Eastwood; but if they do not amount to 5*l.* the price of the vote must be less in proportion to the deficiency, in reference to the Eaglesham votes.

It occurs to me, after different conversations with his Lordship, that twenty guineas may be specified as the price of the vote, exclusive of the price of the feu-duty; and upon this principle the purchasers can easily regulate the amount of the feu-duty, as his Lordship leaves it to themselves to increase or diminish the proposed sum of 5*l.* as they feel inclined, and this freedom of choice will no doubt produce a difference in the purchase prices in

a most all the dispositions, which is what appeared to me to be your opinion should be the case. If any thing occurs to you on the subject, I shall be extremely happy to hear from you, and am, &c.

(Signed) FRA. MARTIN.

Might not a small portion of valuation be taken from Eaglesham, and added to Eastwood, in which case the feu-duty could be fixed according to the wish of the purchasers? I have read the above letter to my Lord Eglinton, who begs you will write by return of post.

No. LXIX. George Russell, Esq. W. S. to Francis Martin, Esq. Writer, Paisley.

27th February, 1815.

I am favoured with your letters of the 24th and 25th instant. You mentioned, that, at the Earl's desire, you are to transmit drafts of the disposition, leaving blanks for the price and feu-duties to the several gentlemen who are to become purchasers; and you then add, "in the meantime it will be proper for you to go on with the trust-disposition to the feus of the different lands, preparatory to the execution of the feu-disposition." Now, I am quite at a loss to understand this. You will recollect that I stated to you distinctly when you were here, that we could not move one step until the feu-duties to be attached to each parcel were ascertained, but that so soon as we were informed of the amount of these respective feu-duties, the feu-disposition for creating the vassalage, and in which the feu-duties must necessarily be inserted, would be made out and sent to be executed by the Earl. And after this, the sasine being taken, on the feu-right, nothing remained to be done but to convey the superiorities to the different purchasers at the stipulated prices. The feu-dispositions are granted in trust, but as to any other trust-disposition, I really cannot imagine what it would refer to.

We have examined our retour-book for Renfrewshire,

but do not find any separate retours either for Nether Borland or Muirhouse. We observe a two-merk land of Weitland and Borlands, in the lordship of Sempill, and a Muirhouse, as part of the seven-pound land of Leye; but nothing can be made of these *cumulos*, unless the separate extent of each parcel had been given.

The feu-duty of the whole of Eastwood is 5*l.* and a proportion of this could be conveyed corresponding to the extent of the superiority, that is to constitute a freehold. I am afraid it would derange the state you have already made up if you were to take part of the Eaglesham valuation and add it to Eastwood; but you will be able to judge of this from the materials in your hands.

What you have proposed, as to putting a certain value on the freeholds, and modifying the feu-duties, according to the inclination of purchasers, is agreeable to what I suggested, and I hope you will soon be able to inform me what the feu-duties of the different parcels are to be, so that no time may be lost in completing the feu-rights.

No. LXX. Francis Martin, Writer in Paisley, to
George Russell, Writer to the Signet.

Paisley, 6th March, 1815.

I send you Mr. M'Kerrell's, Mr. Simpson's, and my own dispositions for your perusal. I wish Mr. Tod would be so obliging as correct the description in mine, as I have copied it from some loose notes, which I cannot depend upon, and he has the certificate of the valuation, which is correct. Have the goodness to return the drafts to me, after you have perused them, although I am aware that they cannot be signed until you have arranged the whole feu-duties, and got the dispositions to the feus. I have requested of the other purchasers to forward their drafts to you with all speed, and I am, &c.

(Signed) FRANCIS MARTIN.

No. LXXI. Mr. Russell to Mr. Martin.

Edinburgh, 9th March, 1815.

I am favoured with your letter of the 6th instant, with drafts of three life-rent dispositions of Lord Eglinton, in favour of yourself, Mr. M'Kerrell, and Mr. Simpson; but to revise these deeds before the feus are created, would be putting the cart before the horse, and might lead to confusion. I expect the Earl in town to-morrow, and hope while he is here to get all the feu-dispositions executed; and this being once done, the conveyances of the superiority will go on in regular course. I take it for granted that I shall immediately be apprised of the extent of all the respective feu-duties.

No. LXXII. Mr. Martin to Mr. Russell.

Paisley, March 13, 1815.

I inclose you Colonel Geddes's disposition, which, after you have revised and filled up the description you will please return me, to be given to his agent to extend.

No. LXXIII. Mr. Hugh Tod, Writer to the Signet, to Mr. Martin.

Edinburgh, March 27, 1815.

I return you, as a parcel by this evening's mail, the drafts of the dispositions by Lord Eglinton to yourself, Mr. Simpson, Mr. Geddes, and Mr. M'Kerrell, which you may get extended, and then forward them, with the scrolls, to Mr. Crichton, who will get them executed by Lord Eglinton. I have mentioned to Mr. Crichton, that the two last cannot be signed until we receive back from Mr. Lamont a renunciation of a life-rent right which he holds over certain parcels of the lands contained in them, and which has been sent to him in England for his sub-

scription; but this need not delay your sending to Mr. Crichton the extended disposition. Mr. Ferrier, the accountant, struck the feu-duty to be paid to Mr. Geddes at 8*l.* 11*s.* 10*d.*, holding the purchase-money to be 79*l.*, and his age 56.

No. LXXIV. Mr. Tod to Mr. Martin.

Edinburgh; March 27, 1815.

I have only to say, that the deed of renunciation by Lamont has just come to hand, and that the dispositions to the superiority may therefore be completed as speedily as the parties incline.

No. LXXV. Extract from Letter Mr. Tod to Mr. James Crichton, Writer, Irvine.

Edinburgh, 27th March, 1815.

We have revised and adjusted the whole of the dispositions to the superiority, in order that they may be got extended in the meantime. The drafts of those of Dr. Donaldson and yourself, we send you as a parcel by this evening's mail-coach. The feu-duties are 5*l.* each, and Mr. Ferrier has struck the Doctor's purchase-money at 61*l.*, taking his age to be 36, and yours at 56*l.*, holding your age to be 43. This is besides 21*l.* for the votes. We also send the extract of Lord Boyd's retour, upon which your vote proceeds.

You will please observe, that, with the exception of the disposition to Mr. Martin and Mr. Simpson, none of the others can be signed by the Earl until we advise you that Lamont has signed and returned the renunciation.

No. LXXVI. Mr. Tod to Mr. Crichton.

Edinburgh, March 27, 1815.

I am happy to inform you that since writing you, as above, the deed of renunciation by Lamont has been re-

ceived and is put on record, so that you need not delay getting one and all of the dispositions to the superiority, signed by the Earl, how soon they come to hand.

No. LXXVII. Mr. Crichton to Messrs. Russell, Anderson, and Tod.

Irvine, 31st March, 1815.

I am favoured with both your letters of the 27th, and the packet containing drafts of the dispositions by the Earl of Eglinton to Dr. Donaldson and myself,—also extended dispositions by his Lordship to H. Graham, Hugh Crawford, and M'Knight Crawford. The three dispositions are signed. I forwarded Dr. Donaldson's on the 29th to Ayr by the Earl, who has since been there. I expect it to-morrow, when the whole five will be sent you along with the tack of Auchinmead, which you wrote for; to make out the articles of roup of that farm.

I have not heard from Mr. Martin with the other dispositions, but when they are sent will be attended to. I have fixed with the Earl that the prices of the whole of these freeholds are to be paid to you.

No. LXXVIII. Mr. Crichton to Messrs. Russell, Anderson, and Tod.

Irvine, 3d April, 1815.

I have this night sent, to go by coach to-morrow from Kilmarnock, the dispositions, by the Earl of Eglinton, in favour of Humphrey Graham, Esq., Hugh Crawford, Esq. and William M'Knight Crawford, Esq., as you desired, also the scroll of the one in favour of Dr. Donaldson, and extract tack of Auchinmead.

No. LXXIX. Mr. Crichton to Messrs. Russell, Anderson, and Tod.

Irvine, 7th April, 1815.

This morning I sent off to Kilmarnock, to go by the coach, a sealed parcel, addressed to you, containing the four scrolls of dispositions, by the Earl of Eglinton, which were sent me from Mr. Martin, on the 5th current, and executed the same day, also the scroll of my own, from his Lordship.

No. LXXX. Note showing the Annuity Price, and Feu-Duty, attached to each of the nine Freeholds.

	Feu-duty.			Price.		
	£.	s.	d.	£.	s.	d.
1. Hugh Crawford	3	12	6	56	7	0
2. William M'Knight Crawford,	5	0	0	95	9	0
3. Humphrey Graham	5	0	0	100	0	0
4. Francis Martin	3	7	3	66	0	0
5. Alexander H. Simpson	5	4	0	100	0	0
6. John M'Kerrell	5	4	2	75	0	0
7. John Geddes	8	11	10	100	0	0
8. James Crichton	5	0	0	77	0	0
9. Dr. William Donaldson	5	0	0	82	0	0

Interrogatories in the Condescendence for John Shaw Stewart, Esq., and Robert Stewart, Esq., and answers thereto, for William Macknight Crawford, Esq.

30th January, 1818.

Q. 1.—Whether the complainer had any intimacy or Nos. 44 and intercourse with Lord Eglinton, previous to 9th February, 47 of process. 1815? If he had so, state what it was.

A. 1.—Above twelve years ago, the complainer met Lord Eglinton at the Ayr races, to whom he was introduced. This circumstance he had forgot, till lately put in mind of it. He has not since that time had the honour of being in his Lordship's company.

Q. 2.—Whether upon any other ground of family connection, or otherways, he had any reason to expect that Lord Eglinton would sell him any property for less than its full market-price? If he had, to state the same.

A. 2.—The complainer has no reason to think that Lord Eglinton would sell him any property at less than his Lordship thought a fair price.

Q. 3.—Whether he ever employed any person (excepting Mr. Hugh Crawford, to whom subsequent interrogatories apply), to make proposals to the Earl for his receiving a life-rent, or other qualification for him, previous to 9th February 1815? If so, state the particulars of that correspondence and negociation.

A. 3.—The complainer never employed any person to make proposals to the Earl: The part Mr. Hugh Crawford took in this business, falls to be explained afterwards.

Q. 4.—Whether the complainer has been several years acquainted with Hugh Crawford, writer in Greenock, and lived in habits of intimacy with him, both previous to and in the course of the year 1815?

A. 4.—The complainer, since his infancy has been acquainted with Mr. Hugh Crawford, writer in Greenock, and has lived in habits of intimacy with him, both previous to, and in the course of the year 1815; but owing to a particular circumstance, he was very little in Mr. Hugh Crawford's company towards the end of 1814, and during the whole of 1815.

Q. 5.—Whether, previous to the year 1815, and during that year, the complainer took the chief management of the estate of Cartsburn, belonging to his mother, and corresponded with Hugh Crawford, and gave instructions relative to the management of that estate.

A. 5.—The complainer, during the lifetime of his father,

was frequently employed to copy some, and to write other letters to Mr. Hugh Crawford, about the management of Cartsburn: and since his father's death his mother has managed all her business through him.

Q. 6.—Whether, between 27th January and 9th February 1815, he met with Mr. Hugh Crawford at Edinburgh or elsewhere, and had conversation with him with regard to the liferent freehold Mr. Crawford was to receive from Lord Eglinton? Whether he had one or more conversations; to state the particulars of these conversations.

A. 6.—On Saturday the 4th February 1815, the complainer dined at the Pitt Club, at which dinner Mr. Hugh Crawford was present. On the 5th, the complainer called at Mr. Leven's for Mr. Crawford, who accompanied him to Ratho House; staid all night, and went next morning to Glasgow by the mail coach. The complainer does not recollect that the subject with regard to the liferent freehold Mr. Crawford was to receive from Lord Eglinton was even mentioned.

Q. 7.—Whether, previous to 9th February 1815, he authorised Mr. Hugh Crawford to apply to Lord Eglinton for 180*l.* of valuation, or if he could not obtain that for a liferent freehold qualification?

A. 7.—The complainer has, for many years past, wished to add a freehold to the estate of Cartsburn: this wish he uniformly expressed in the most open manner, and he more than once hoped to have made a purchase. With the steps he took, Mr. Hugh Crawford was made acquainted; but he does not recollect of giving any instructions to Mr. Hugh Crawford, to apply to Lord Eglinton either for 180*l.*, or for a liferent freehold qualification. At the same time, Mr. Hugh Crawford was perfectly aware, that the complainer would be most happy to purchase either the 180*l.*, or the liferent.

Q. 8.—Did the complainer receive Mr. Hugh Crawford's letter of 13th February 1815, ingrossing copy of Lord Eglinton's letter, 11th February 1815.

A. 8.—The complainer received and produced the letter.

Q. 9.—Did the complainer receive Mr. Hugh Crawford's letter of 14th February 1815, ingrossing copy of Lord Eglinton's letter of 12th February 1815.

A. 9.—The complainer received and produced this letter.

Q. 10.—Whether, from these letters or otherwise, the complainer understood, that other persons besides Mr. Hugh Crawford and himself were to receive freehold qualifications from Lord Eglinton in the county of Renfrew?

A. 10.—Till the complainer was refused the freehold on account of Mr. Mackerrell's acceptance, he was ignorant that any other person, save Mr. Hugh Crawford, had purchased a life-rent vote in Renfrewshire from Lord Eglinton.

Q. 11.—When did he first hear of that circumstance, and from whom, and what was the nature of the information he received?

A. 11.—The complainer first heard from Mr. Dillon, that others besides Mr. Hugh Crawford and Mr. Mackerrell, had purchased from Lord Eglinton; but with even their names he was unacquainted until he went to the county meeting, at which his claim for enrolment was rejected. It was after the complainer had made his own purchase, when Mr. Dillon mentioned that others were to be infeft on the same charter.

Q. 12.—Did the complainer receive a letter from Mr. Hugh Crawford, written on or about the 27th February 1815, containing a copy of Lord Eglinton's letter of 25th February 1815?

A. 12.—The complainer did not receive this letter.

Q. 13.—If he did not receive it, say whether he knows or suspects what is become of the said letter from Mr. Hugh Crawford, containing copy of Lord Eglinton's said letter of 25th February 1815.

A. 13.—The complainer left Ratho House on the 27th February 1815; and on the 28th he arrived at Broadfield,

near Port-Glasgow, where he remained some time. During his visit there, he occasionally saw Mr. Hugh Crawford. If, therefore, Mr. Hugh Crawford did write, and put a letter into the post-office of date 27th February, 1815, that letter would go to Ratho House, and would from thence be forwarded to the complainer, at Mr. Hugh Crawford's office, Greenock, the direction that the complainer left for his letters, which were to be forwarded to him: When the letter arrived there, he suspects it would either be used as waste paper, or perhaps returned to the post-office. He has in vain made many inquiries and searches about this letter.

Q. 14.—Whether the complainer received from Mr. Hugh Crawford, Lord Eglinton's three principal letters of the 11th, 12th, and 25th February, 1815, produced by the complainer? State where, when, and on what occasion, he received these three principal letters, and what conversation took place on his receiving them.

A. 14.—In January, 1817, Mr. Dillon mentioned to the complainer, that he wished to have the originals, or copies of all the letters that mentioned any thing about the freehold qualification. The complainer requested Mr. Hugh Crawford to look out and send him any letters, or copies of letters, that he might have, noticing in any way the subject of the complainer's freehold. Mr. Hugh Crawford thereupon sent to the complainer these three principal letters of Lord Eglinton.

Q. 15.—Whether Mr. John Dillon, the complainer's law-agent in Edinburgh, proceeded upon the directions and informations he received from Mr. Hugh Crawford to make up the titles?

A. 15.—As this is a question that can be answered alone by Mr. John Dillon, the complainer must refer it to him. The complainer supposes that Mr. Dillon derived the first knowledge of the bargain from Mr. Hugh Crawford. Mr. Dillon afterwards received information from Mr. Tod, and from the complainer. It appears by a letter from Mr. Hugh Crawford to Mr. Dillon, of date 11th April, 1815,

and Mr. Dillon's answer, of date 12th of that month, Nos. 29, and 30, of Appendix, that Mr. Dillon did not communicate with Mr. Crawford as to the steps he was taking.

Q. 16.—Was it at the desire of the complainer that Mr. Hugh Crawford wrote to Mr. Dillon relative to this vote?

A. 16.—The complainer does not recollect of giving Mr. Hugh Crawford any directions to write to Mr. Dillon on this occasion: he does not recollect of ever seeing Mr. Hugh Crawford's letter to Mr. Dillon, till after the commencement of this process.

Q. 17.—Did the complainer write to Mr. Dillon on that occasion? If he did, he is desired to say if he knows or suspects what became of his letters to Mr. Dillon?

A. 17.—The complainer can find no copy or jotting of any letter to Mr. Dillon on this occasion. If he did write, the letter would be sent by post. He supposes Mr. Dillon keeps his letters.

Q. 18.—Whether the complainer produced, when cited as a haver, Mr. Hugh Crawford's letters to Mr. Dillon, dated 14th and 17th March and 11th April, 1815, and copy letter by Lord Eglinton to Mr. Hugh Crawford, inclosed in Mr. Hugh Crawford's letter of 17th March?

A. 18.—The complainer produced Mr. Crawford's letters to Mr. Dillon, of 14th and 17th March, 1815; he did not produce the letter of 11th April, 1815.

Q. 19.—Whether the price of the freehold was at one time calculated at 74*l.* 9*s.* or thereabout?

A. 19.—The complainer never heard of this calculation till after the price had been fixed and paid.

Q. 20.—Whether the price which he or his agents ultimately agreed to pay, was 95*l.* 9*s.*?

A. 20.—The price agreed upon was the only one that was fixed or proposed, and was 95*l.* 9*s.* which was the sum paid.

Q. 21.—What was the cause of the difference?

A. 21.—There was no difference, and therefore no cause of difference.

Q. 22.—Was the complainer consulted with regard to paying that difference?

A. 22.—As there was no difference, there was no consultation about it.

Q. 23.—When, and by whom was he consulted, and did he give any instructions relative to it?

A. 23.—He was not consulted about the difference, as none existed.

Q. 24.—Whether the complainer did not bring with him, on the day fixed for his examination as a haver, the ten writings specified in the inventory from No. 14, to No. 24, inclusive?

A. 24.—The complainer took in all the letters he had discovered, with the exception of the three principal letters above mentioned, from Lord Eglinton, and gave them to Mr. Dillon. But Mr. Dillon then told the complainer, that he ought to produce these three letters also. There was not time for him to return to Ratho House that day and bring them in. He, therefore, left those which he had brought with Mr. Dillon, and on a succeeding day, he again returned to Edinburgh, and brought with him the three said letters, which were also put into the inventory, and he accompanied Mr. Dillon to the Outer House, where Mr. Dillon gave the letters, &c. to Mr. Patrick, who took them away with him. Some time afterwards, perhaps half an hour, Mr. Patrick returned, and told the complainer, that there was no occasion for his longer attendance, nor for his examination on oath, which the complainer testified his willingness to give.

Q. 25.—Did he state to the Respondent's counsel, that on his word of honour, these were all the writings he had relative to the transaction, in consequence of which his examination on oath was dispensed with?

A. 25.—In answer 24, this question is fully answered, and the complainant could only repeat that answer, to which he refers.

Q. 26.—Whether these were, or were not, the whole papers and letters that were in his possession at the time?

A. 26.—These were all relative to this transaction, and included within the diligence, that he had discovered to be in his possession at the time.

Q. 27.—Whether he has since discovered any other papers or letters relative to this transaction between Lord Eglinton and him? If he has, he is desired to produce them.

A. 27.—The complainer did afterwards discover a jotting of a letter from himself to Lord Eglinton, of date 4th March, 1815, which he immediately sent to Mr. Dillon, and it was printed page 9th of his petition; had he discovered any other, he would instantly have sent them, but he has not found any other.

Q. 28.—Whether he wrote a letter to Lord Eglinton upon 4th March, 1815?

A. 28.—He did write that letter mentioned in the preceding answer.

Q. 29.—Whether he ever wrote any other letter to Lord Eglinton, or had any other correspondence or communication with him, directly or indirectly, after 9th February, 1815, otherwise than through Mr. Hugh Crawford? If he had, to state what it was.

A. 29.—The complainer never wrote any other letter to Lord Eglinton, nor had any correspondence or communication with him directly or indirectly, except that which has been fully and distinctly stated in the previous answers.

Q. 30.—Whether, previous to 29th March, 1815, he had any conversation with any person at Greenock, or at any place in the county of Renfrew or elsewhere, relative to Lord Eglinton's measures for bringing forward and disposing of his dormant freeholds, in the county of Renfrew, or heard any thing thereof?

A. 30.—Previous to 29th March, 1815, the complainer never knew or heard of Lord Eglinton's measures for bringing forward and disposing of his dormant freeholds in the county of Renfrew.

Q. 31.—Was any progress of titles, or search of incumbrances on Lord Eglinton's estate exhibited to you, or to your agents, or had you any information with regard to them?

A. 31.—No progress of titles, or search of incumbrances on Lord Eglinton's estate was exhibited to the complainer, nor had he any information with regard to them.

He refers to his agent Mr. Dillon, for a further answer to this question, to whom he trusted the conducting of this business.

W. MACKNIGHT CRAWFURD.

Ratho House, 26th January, 1818.

Minute for John' Shaw Stewart and Robert Stewart, Esqrs.' containing additional interrogatories.

6th February, 1818.

In terms of the above interlocutor, and under the reservation and explanation contained in their former minute of 13th January last, the Respondents now propose the following additional queries to the complainer, Mr. Macknight Crawford:

1mo. When the complainer mentions, in answer to query 5th, that his mother managed all her business through him, does he not mean, that she managed her whole business, and particularly the business of the Cartsburn estate, through the complainer; and was not Mr. Hugh Crawford the factor and country agent who managed the Cartsburn estate under the complainer, and with whom the complainer, previous to and during the year 1815, corresponded in that character?

2do. The complainer has stated, in answer to query 6th, that when he saw Mr. H. Crawford, on the 4th of February, and afterwards went with him to Ratho-House, on the 5th, " he does not recollect that the subject, with regard to the life-rent freehold Mr. Crawford was to re-

ceive from Lord Eglinton, was even mentioned." He is desired to read Mr. H. Crawford's letter to him of the 13th February, 1815, written on his return from Edinburgh, in which he says, " My dear Friend, I lost no time *upon* " *my return*, in writing to the Peer of Eglinton, and last " night's post brought me a letter from his Lordship, " which I now beg leave to transcribe ;" and he is desired to say, whether this letter does not refer to a previous conversation between Hugh Crawford and the complainer, in which it had been agreed, that Hugh Crawford should apply to Lord Eglinton, for one of his votes to the complainer?

3*tio*. The complainer is also desired to read the following passage in his reclaiming petition, page 7, viz. " To " that gentleman himself, (Mr. Hugh Crawford) Lord Eg- " linton had offered to convey a superiority in life-rent, at " the *value of the feu duties*, calculated at a price, accord- " ing to the tables for ascertaining the worth of annuities. " This circumstance Mr. Crawford mentioned to the pe- " titioner *in conversation, when he happened to be at Edin-* " *burgh, and to be with the Petitioner at his seat of Ratho,* " *in this neighbourhood, about the beginning of February,* " 1815, stating verbally *the price and mode of calculation,* " without showing to the Respondent any letter from " Lord Eglinton; and the Respondent immediately said, " that *at this rate* he would willingly purchase either su- " periority to the extent of 180*l.* in valued rent. or to the " amount of an entire qualification." The complainer is desired to say whether this statement was not made by his authority, and whether the same was not correct, according to his recollection at the time.

4*to*. In query 10th, the Respondents inquired, whether the complainer understood, from letters or otherwise, that other persons besides Mr. H. Crawford, himself, were to receive freeholds from Lord Eglinton. In answering the query the complainer states, that he was ignorant that any other person, save Mr. Hugh Crawford, had "*purchased* " a life-rent vote" from Lord Eglinton. The complainer

is requested to read the passages after quoted from the following letters, viz. 1st, From Lord Eglinton's letter to Hugh Crawford, of 11th February, 1815, (admitted to have been received by the complainer) in which Lord Eglinton writes, " I will be happy, therefore, that he, (the complainer) will purchase one of those, *on the terms I have been advised to propose* ; and as you mention *that he will accept it*, I have wrote Mr. Martin, in case the *number is not filled up*, if possible to give a preference to Mr. Crawford in the room of *some other*." 2d, The passage from Lord Eglinton's letter to H. Crawford, of 12th February 1815, (also admitted to have been received by the complainer) in which his Lordship writes, " I have received a letter from Mr. Fulton M'Kerrel, accepting of the terms offered for the purchase of *one of the freeholds* ;" and, 3dly, The passage from Lord Eglinton's letter of 25th February, (the contents of which the complainer admits to have been communicated to him at Greenock,) in which his Lordship writes, " I have *still another* freehold to dispose of in the county of Renfrew, which I am glad to have it in my power to offer to your friend Mr. Crawford. If he will have the goodness to accept it, I beg you will write to Messrs. Russell, Anderson, and Tod, mentioning his christian name and age, without delay, in the hope that his disposition may be made out, along *with the others* which I have given positive directions to be immediately completed." The complainer is now desired to state, Whether from these, or any other letters or information, he did not understand that freeholds in the county of Renfrew had been offered to other persons besides himself and Hugh Crawford? and Whether he was not aware that other persons were to receive, or were in treaty to receive, such freeholds?

5to. The complainer has stated, in answer to query 13, that he left Ratho-House, and arrived at Broadfield, on 28th February, 1815, where he remained some time, during which he occasionally saw Mr. Hugh Crawford ; and it was during this period that he states, in his reclaiming

petition, page 9, that Mr. H. Crawford made a verbal communication to him of the contents of Lord Eglinton's letter of 25th February, and in the same page of the petition, he quotes a letter from himself to Lord Eglinton, written at Greenock, during the same visit, dated 4th March, 1815, in the following terms:—" Mr. Hugh Crawford has just informed me that your Lordship has *still* a freehold in this county to dispose of, and that you was *willing to let me have it*. I shall be very happy to become the purchaser, and I have directed Mr. Crawford to write to your Lordship's man of business on that subject;" and he states in his reclaiming petition, that it was the complainer " who himself accepted the purchase." The complainer is desired to say, whether he did not understand the above letter to be an acceptance on his part of the terms, previously offered by Lord Eglinton, in his correspondence with Mr. Hugh Crawford, both to Mr. Hugh Crawford himself, and to the complainer. If he shall say, that it was not an acceptance of these terms; then, whether there were any other terms of which it was an acceptance; what were these terms, and to whom communicated? The complainer is farther required to say, whether the terms which he states, in the above letters, that he accepted of had not previously been communicated to him, and stated to be the same as offered to Mr. Hugh Crawford himself, and if he shall say they were not communicated, then did the complainer write the above letter accepting of the freehold, while in ignorance of the price, and other terms on which it was offered.

6to. The complainer has said in his petition, page 10th, that Mr. Crawford communicated the transaction to Mr. Dillon, the complainer's agent, " and it was left to Mr. Crawford to frame that communication as he saw fit." And again, " The only notification of the bargain to Mr. Dillon, was contained in the above letter from Mr. Hugh Crawford," viz. the letter of 14th March, in which Mr. Crawford writes:—" His (the complainer's) age, between 29 and 30, makes the value of his life

“ 74*l.* 9*s.* Will you, therefore, immediately wait on Messrs. Russel and Anderson, and peruse the draft of the disposition, which can be filled up with the above sum, and then get it extended.” Is it not the complainer’s opinion that Mr. H. Crawford, in this letter, communicated the terms of the bargain which had been concluded with Lord Eglinton, to the best of his knowledge and belief at the time ; and does it not appear, from this letter, that the price fixed by Mr. Hugh Crawford was 74*l.* 9*s.*

7mo. The complainer is also requested to peruse Mr. Dillon’s answer to this letter of 15th March, where after mentioning the demand made by Lord Eglinton’s agents, at Edinburgh, of 21*l.* for the vote, besides the 74*l.* 9*s.* he writes—“ Please mention to me the number of years, and according to what table it is taken, that I may adjust the calculation to their mind ;” and Mr. Crawford’s reply of 17th March, in which he writes—“ I beg to inclose you a copy of the Earl’s letter to me, with the schedule of the lives. Mr. Crawford’s age is 30, so that you can be at no loss to fix the sum,”—and also to peruse the copy of Lord Eglinton’s letter, here stated to be inclosed, being the letter of 2d February, 1815, called the first circular (all which letters were produced by the complainer), and regarding which last-mentioned letter the complainer states, in his petition, page 11, “ that neither he nor his man of business knew of its existence till it was communicated by the preceding letter of 17th March, expressly to inform the latter of the principle on which the value of the freehold was calculated.” The complainer is desired to say, whether it does not appear from these letters, that the price, for which the freehold was offered by Lord Eglinton, was the value of 5*l.* of feu-duty, upon the life of the purchaser, conform to a table of annuities annexed ; and whether it did not appear, that according to this table, the price of the annuity, on the complainer’s life, amounted to 74*l.* 9*s.* ; and whether it does not appear, from the above letters, that Mr. Crawford, when he wrote

them, acted on the belief that he had made the purchase for the complainer at the above price of 74*l.* 9*s.*

8*vo.* The complainer states, in his reclaiming petition, page 12th, "That on receiving the information contained in the above letters, Mr. Dillon *immediately* waited on Messrs. R. A. and Tod, the agents of Lord Eglinton, in this city. He calculated the value of the annuity, and found it correct, to which was *added*, 20 guineas for the freehold, making the whole price 95*l.* 9*s.* To this, with the defender's (complainer's) *approbation*, he agreed." The complainer is required to say, at what time this meeting between him and Mr. Dillon took place, and whether it was not immediately after Mr. Dillon had received the above letter of 17th March, with its inclosure, and prior to Mr. Dillon waiting on Messrs. Russell, Anderson, and Tod, and finally settling the transaction as alluded to in the passage before quoted.

9*no.* Was the disposition by Lord Eglinton to the complainer prepared after this meeting, and was that deed subscribed by Lord Eglinton on the 29th March, 1815?

Answers for William Macknight Crawford, Esq. to the Additional Interrogatories.

1. The complainer has already stated in the most unqualified terms, that his mother managed all her business through him. The complainer did correspond with Mr. Hugh Crawford, as factor of his mother upon the estate of Cartsburn, and as her agent in the country, previous to, and during the year 1815.

2. The complainer has no recollection still, that any thing was said about "the life-rent freehold Mr. Crawford," (that is, as the complainer understands Mr. Hugh Crawford) "was to receive from Lord Eglinton," at the time here referred to. Neither has the complainer any recollection, that the subject of the complainer's own intention to purchase superiority, or a life-rent qualification, was then spoke of between them, either at Ratho House

or at Edinburgh. At this time there was no prospect of getting either. He recollects that their time was occupied when together upon that occasion, so far as they had leisure, with a law question then in dependence before the Second Division of this court, relative to some shore ground at Cartsburn. Indeed, the complainer is satisfied from the correspondence, that Mr. Hugh Crawford did not receive Lord Eglinton's letter to himself, of 2d February, 1815, till after he, Mr. Hugh Crawford, had returned from Ratho House to Greenock. Mr. Hugh Crawford wrote to Lord Eglinton, his letter of 9th February, 1815, without making any communication whatever to the complainer, of the letter of the 2d, which the Earl had written to him. The first communication Mr. Hugh Crawford made to the complainer of this correspondence, was by his letter to the complainer of the 13th February, produced.

3. The complainer entrusted the preparation of the reclaiming petition for him to his agent Mr. Dillon. He furnished to Mr. Dillon all the correspondence and copies which he had, and left it to Mr. Dillon and his counsel to make the proper use of these materials. The complainer did not revise the reclaiming petition when drawn, or see it before it was printed and presented. No statement in that paper alters or affects the complainer's own recollection of the facts. It is evident from the correspondence, that Mr. Hugh Crawford did not receive the communication from the Earl of Eglinton to himself, of the 2d February, 1815, till after he, Mr. Hugh Crawford, had returned to Greenock.

4. The complainer did not formerly answer to query 10th, that "he was ignorant that any other person, save "Mr. Hugh Crawford, had purchased a life-rent vote from "Lord Eglinton." His answer was, that he was ignorant of this, "till the complainer was refused the freehold, on "account of Mr. Mackerrel's acceptance." The complainer had no information upon the subject of this additional question, except what he received from the terms of the

letters he has produced. He made no inquiry as to the offers or treaties of any other persons for freehold qualifications, and to the best of his recollection, he heard no more of their transactions with Lord Eglinton, than appears from the terms of the letters to which he refers.

5. During the complainer's visit at Broadfield, in the end of February and beginning of March, 1815, he recollects that his thoughts, which at no time have been much engrossed by county politics, were particularly disengaged from that subject. It has been only from finding the note of his letter to Lord Eglinton of 4th March, 1815, that he has been able to recollect the fact, that he then wrote to his Lordship ; and it is from the same evidence he is now satisfied that he had a verbal communication with Mr. Hugh Crawford at that time. The complainer has no recollection that he then knew the exact price required, nor does he believe that it had then been stated to him. He had no idea that any other terms could be proposed to him but the price, and no other terms but the pecuniary terms or price ever were, directly or indirectly, proposed to the complainer. He left Broadfield on the 26th March, and dined in Edinburgh on the 27th. He does not now remember that he actually then saw Mr. Dillon, or that Mr. Dillon then told him the sum of the price. But he has no doubt that he did on the 27th see Mr. Dillon at Edinburgh, and then learned from him the sum of the price. And he is certain that Mr. Dillon first informed him what the price was, and did so about this time. The complainer has a loose recollection, that from the first his impression was, that the price demanded would not exceed 100*l.*; but he cannot remember upon what authority he took this impression. The complainer thinks it proper to add, that he does not now remember directing Mr. Hugh Crawford to write to Lord Eglinton's man of business while he was at Broadfield, and he has no reason to think that Mr. Hugh Crawford did write any such letter. The complainer's mind was otherwise engaged at the time. He did not suppose the circumstances to be of the small-

est consequence, and he has no farther recollection of these than he has stated.

6. The letter of Mr. Hugh Crawford to Mr. Dillon was not shown to the complainer, nor were its terms mentioned to him. He cannot, therefore, say what were Mr. Hugh Crawford's views when he expressed himself in these terms. It now appears to the complainer that Mr. Hugh Crawford then calculated only the value of the feu-duty, as an annuity upon the complainer's life.

7. The first precise information which the complainer can recollect that he got of the price was from Mr. Dillon. He did not see Mr. Dillon, nor hear from him on the subject of the price, so far as he can recollect, till Mr. Dillon wrote to him for the money, which he immediately sent without objection. He does not know what Mr. Hugh Crawford's belief was, farther than now appears from that gentleman's letter to Mr. Dillon. But the complainer has no reason to think that Mr. Hugh Crawford believed that he had made the purchase at the price of 74*l.* 9*s.* On the contrary, the complainer sees from the correspondence, that Mr. Hugh Crawford was informed by Mr. Dillon that the price was 95*l.* 9*s.*, and that Mr. Hugh Crawford made no objection to that price or remark upon it.

8. The complainer did not see Mr. Dillon, or hear from Mr. Dillon, so far as he recollects, from the 17th of March, till after the bargain was completed. Mr. Dillon did state to the complainer, as above mentioned, that the price was 95*l.* 9*s.*, and on the first demand the complainer sent him the money without objection.

9. The complainer has no doubt that Lord Eglinton's disposition was prepared after the 17th of March. But neither Mr. Dillon nor any other person made any communication to the complainer about the mode of preparing and executing that deed. He has no reason to doubt that it was subscribed by Lord Eglinton upon the date it bears.

W. MACKNIGHT CRAWFURD.