HOUSE OF LORDS

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Die Jovis, 23 Maii 1822.

The EARL of SHAFTESBURY in the Chair.

THE Order of Adjournment was read.

The Minutes of the last Committee were read.

The Counsel were called in.

Then Mr. Brougham, of Counsel for the Petitioner, stated, that to prove that there was no Issue of John Home, who was the Son of Sir Andrew Home of Kimmergham, by Margaret Drummond, and that there could have been none by any other Wife, for that he was not divorced from her in 1736, he proposed to produce an Office Copy of a Disposition, dated the 3d of September 1781, by Trustees appointed by the Father of Margaret, which stated that she died at Bath on the 17th of August 1781, without lawful Issue of her Body, so that the Trust was at an End, and the Subjects of it had devolved on Agatha Drummond, Wife of Henry Home, and Mary Drummond, Wife of John Pringle.

Then GEORGE HOME, Esquire, was again called in, and further examined as follows:

(By Mr. Brougham.) What have you in your Hand? An Office Copy of a Disposition by the Trustees of the deceased William Drummond of Grange to Agatha and Mary Drummond, dated the 3d, 4th, and 12th of September 1781.

From whence did you get that?
It is an Extract.

Of what Record is that an Extract?
The Register of Deeds.

In what Office?
In the General Register Office at Edinburgh.

Is this a Copy made by you or by an Officer in the Registry?
It is my own Hand-writing, examined with the Record.

You made the Copy yourself, and compared it with the Original Record?
Yes.

(40.) N Cross.
Cross-examined.

(Mr. Attorney General.) You are understood to say, that you yourself examined this with the Original, and can swear that it is a correct Copy?

Yes.

The same was delivered in, and read as follows:


"28 Septemb. 1781. Disposition the Trustees of William Drummond of Grange to Agatha and Mary Drummonds.

"Know all men by these presents me Adam Drummond of Gairdrum only accepting and surviving trustee named and appointed by the deceas'd William Drummond of Grange for the management of his affairs conform to the disposition and deed of settlement aforesaid. As also us John Pringle Writer to the Signet Mr. John Pringle Advocate Dr. Colin Drummond Physician sometime in Edinburgh Henry Home of Kames one of the Senators of the College of Justice George Drummond Home younger of Blairdrummond son of the said Henry Home and Sir James Pringle of Stitchell Bar' trustees assumed into the management foresaid in manner aforesaid. Whereas the said deceased William Drummond of Grange by his disposition and deed of settlement of the date the twenty-first day of May mviij &c. and thirty-six and reg in the b' of council and session [office I. K.] the fourth day of August mviij &c. and thirty-seven for certain good and weighty causes and considerations alienated and disposed to and in favour of Sir Walter Pringle of Newhall and Sir Gilbert Elliot of Minto two of the Senators of the College of Justice Sir Robert Pringle of Stitchell Bar' Tho' Drummond of Logiealmond James Haliburton elder of Pitcur and James Haliburton you' yr of his eldest son James Drummond elder of Blairdrummond eldest bro' german of him the said Wm Drummond and George Drummond you' yr of his son John Drummond of Quarrell also brother german of him the s' Wm Drummond and George Drummond one of the com' of the customs Patrick Drummond elder of Gairdrum Mr. Francis Pringle doctor of medicine Mr. Robert Pringle eldest son of the Lord Newhall and Mr. Robert Pringle adv' all now deceas'd and me the said Adam Drummond therein designed you' of Gairdrum eldest son of the s' Patrick Drummond of Gairdrum and failing any of them by decease or non-accepting the survivors and those who sh' accept in trust for the uses & purposes therein and afterments and under and with the reserves conditions and provisions resive therein spec' and no otherways. All and whole the lands of Grange called Abbotsgrange the lands of Bowhouse and lands of Newbigging comprehends these three tent' built by the s' Wm Drummond and the place built and adjacent thereto now called Emishisreditis & Amisreditis possett by Bartholomew Morison Rob' Bannatyne and Andrew Gib' tenants and possessors thereof with the teinds of the
the s' whole lands included with towers fortalice manors places houses biggings yards orchards & per* lying w'in the shire of Stirling and that as prin*. And sicklike these parts & portions of land with the parsonage & vicarage teinds yrof purchased & acquired by his Grace John Duke of Roxburgh from the serv' persons feuars of the s' Duke of Roxburgh & propr* of the s' lands conform to a contract of sale ent' into betwixt him and the s' feuars bear* date the twelfth and twenty-first days of Jan' & eight day of Feb' mvi\(^*\) and seventeen all lying contiguous to his Grace the s' Duke of Roxburgh his prin* mansion house of Floors in the shire of Roxburgh & bounded in manner therein and aftermen* And in like manner all & whole the eight part of the lands of East Barns with the teinds parsonage & vicarage thereof & per* of the same also purchased & acquired by the s' John Duke of Roxburgh from Walter Harper portioner of East Barns lying contiguous to the said Duke of Roxburgh his prin* mansion house of Broxmouth w'in the constabulary of Hadd* & sherrifdom of Edin' conform to ane contract of sale entered into betwixt his Grace the s' Duke of Roxburgh & the s' Walter Harper bear* date the day of

And that in special & real warrandice and security of the s' prin* lands with the teinds yrof included & per* of the same so that if it sh* happen the same or any part thereof to be evicted from the s' W* Drummond or his heirs & succ* at the instance of any of the heirs of taillie succeed* or haw right to succeed to the s' Duke of Roxburgh in his estate by virtue of the taillies made by his predecessors thereof the clauses therein con* de non alienando under the irritancy therein express. Then and in that case the said W* Drummond & his s' heirs & succ* sh* have full and free access & recourse to the saids warrandice lands with the teinds and pert* or so much yrof as sh* correspond to the s* eviction. And also all and whole that lodging or dwell* house being the fourth story of the great stone ten* of land lvs upon the south side of the Parlia* Close of Ed* w' the per* of the same as therein partly described tog* with all right title in* claim of right property & possession petitor and possessor which the s' W* Drummond had or could any ways claim or pretend thereto or to any part or portion thereof in time coming reserv* always to himself his lif* of the prem* and a power to alter. And it is thereby provided and declared that the major part of the persons before named trustees accepting and on life for the time should be a quorum invested with the full power of execut* the trust thereby committed to them and for doing all & every thing requisite yr'enant. And it is thereby express* provided & declared that the rents mail* & duties of the lands & others abovement* and other subjects thereby disposed sh* be applied for pay* of all the granters just and lau* debts and fun* charges and part* of an alimentary provision of one hundred pounds yrs yearly to Marg' Drummond his dau* & only child procreate betwixt him and the deceat Mrs. Marg' Pringle his spouse and which prov* he ap* to be paid to her at two terms in the year Whit* & Mart* by equal portions after his death & not to be affectable by the debts or deeds of her husb* John Home son to the deceased Sir Andrew Home of Kimmerghame who was thereby excluded therefrom. And that the remainder of the s' rents mail & duties of the subjects above ment* and other subjects thereby disposed after pay* of factor fees & all other necess*
necess" charges & exp to be disbursed in the excon of the trust be
stocked and lent out upon interest & the rights & securities thereof
taken in name of the st trustees in trust for the uses and purposes
therein ment. And it is thereby expressly provided and declared
that in case of law issue of the body of Margaret Drummond his
Daughter who sh' attain to the years of majority or to be married, the
st trustees sh' be obliged to denude themselves of the st trust in
favour of the heir male of the Body of the st Margaret Drummond
whom failing the eldest dau'or heir female of her body w'out division
so soon as they sh' attain to the age of twenty-one years compleat or
be married with the burthen always of the st Margaret Drummond her
alimentary provision and with the burden of suitable provisions to the
younger children if any were as therein mentioned And in case the st
Marg' Drummond sh' survive the st John Home her husb and sh' think fit to enter into a contract of marriage with a second husb.
Then she sh' be holden & obliged to marry with consent of the said
trustees or their quorum in which case the st trustees or their quorum
are thereby authorized and empowered to enter into the st contract
of marriage and to settle suitable provisions upon the st Margaret
Drummond and the children of the marriage But with this express
condition & provision likes as it is thereby expressly provided &
declared that in case the st Margaret Drummond sh' depart this life
w'out law' issue of her body begotten or in case of law' issue yet if
such law' issue sh' cease before they attained to the age of twenty-
one years compleat or to be married then & in either of these cases the
lands & estate ment and whole other subjects thereby disposed by
the st William Drummond to the st trustees with the whole securities
to be taken in consequence of the st trust sh' from thenceforth fall
accresce pertain & belong to James Drummond of Blairdrummond
his brother german & his heirs & succe and the st trustees or their
quorum in that case sh' be holden & obliged to denude themselves of
the st trust and whole estate thereby entrusted to them in favour of
the st James Drummond & his fores the said trustees upon their
denuding being always fully & amply disch of the st trust and of all
that could be laid to their charge on account thereof And more-
over the said William Drummond for the uses and purposes fores
thereby assigned & disponed to & in favour of ye st trustees & their
fores all and whatsoever debts sums of money her & movl gold silver
coined & uncoined goods gear insight plenishing & housef furniture
utensils & domicils lying money & other estate her & movl whatsoever
pert & resting to him at his death with all bonds & other rights &
securities concern the premisses yrby nominating & appt the st fores-
named persons trustees accepting to be his sole execs & universal
legators and intrum* with his whole goods gear & other mov falling
under testament as the st dipos & deed of settlem contr proy of
resig asig to the writs & evidents and rents maists and duties
precept of sasine and other clauses more fully bears. And whereas the
said William Drummond by his decl* and add' settlem executed by
him of the date the sixteenth day of July mvi' & thirty-seven &
reg in the b' of council & session the said fourth day of August
thereafter narrating the fors dipos & deed of settlem did thereby
declare his mean & intention to be that if the whole heirs descended
of his daughter's body sh' fail even after they attained the age of
twenty-
twenty-one years compleat or were married as well as before their majority or marriage and that they had not otherwise disposed of his her and moveable estate the same sh'thenceforth fall accresce pertinent & belong to his s' brother & his s' heirs & succ'd and accordingly he's body at any time whither before or after marriage or attaining to majority his whole land and other estate her or mov'd before ment'd and whole bonds rights and securities to be taken by the said trustees in consequence of the s' trust sh'd fall accresce pertinent & belong to the s' Ja Drummond of Blairdrummond & his heirs & succ'd unless the issue male or female of the s' Marg Drummond's body sh'd otherwise dispose thereof at or after their law marriage or attaining the age of twenty-one years compleat. And the s' deed of decl's & settlement subsumes that whereas the trust settled by the s' W Drummond in the person of his s' trustees might in some events continue for a long time and that if all the s' trustees or such of them as sh'd accept sh'd chance to die before the trust was fully executed his desire might prove ineffectual Therefore in order to prevent any such disorder in his affairs he thereby gave full power & com't to his s' trustees or such of them as sh'd accept and to the major part of these accepting in life for the time or to the survivor of them upon the decease of any of the said accepting trustees to assume any person they tho' fit into the s' trust in place of the deceasing accepting trustee and so forth from time to time as any of the s' trustees sh'd happen to decease the surviving accepting trustees including those formerly assumed sh'd have power to assume such person or persons as they should think fit to place in the deceasing trustees until the s' trust sh'd be fully executed. And the s' W Drummond thereby declared that the person or persons that sh'd be so assumed sh'd be as fully vested in the her & mov' estate as if the foresaid dispos' & deed of settlem't had been granted to the person or persons so to be assumed and that the infestments to follow thereupon had been taken in their favour and that the major part of the accepting trustees and those assumed to the said trust in life for the time sh'd be always a quorum as the s' decl's & settlement in itself also more fully bears In virtue of which dispos' and deed of settlem't & precept of sasine therein cont'd & decl's & settlem't &amen the fores' trustees named in the s' deed were duly & validly infest & seased in the lands & others part's before ment'd lying within the shire of Stirling conform to an instru' of sasine taken yrupon dated the nineteenth & reg'in the gen' reg' of sasines at Edin' the twenty-third day of August mviij & thirty-seven as also were infest in the warrandance lands lying within the shire of Roxburgh &c. conform to an instru' of sasine taken yrupon dated the twenty-ninth and thirtieth & reg'in the gen' reg' of sasines the thirty-first days of August mviij & thirty-seven and whereas upon the decease of the s' W Drummond in mviij & thirty-seven I the said Adam Drummond and others of the trustees named & appo'd by him in manner fores' accepted of the s' trust and proceeded to the management thereof. And the said trustees at least a quorum of them did in virtue of the power before ment'd by their deed of assumption dated the thirteenth & twenty-fifth days of Feb' & third day of March mviij & sixty-one & reg' in the books of session [office I. R.] the fourth day of March s' year assume the s' John Fringle writer
writer to the signet into the s\textsuperscript{st} trust in place of the deceast Andrew Sinclair D\textsuperscript{r} of physic & professor of medicine in the university of Ed\textsuperscript{r} trustee assumed by them in place of Jas Drummond of Blairdrummond deceast. And also the s\textsuperscript{st} trustees at least a quorum of them by their other deed of assumption dated & reg\textsuperscript{i} in the books of session [I. K.] the twenty-third day of July mvij\textsuperscript{r} & sixty-six did on account of the death of sev\textsuperscript{o} of their number assume the s\textsuperscript{st} Mr. John Pringle adv\textsuperscript{i} & Dr. Colin Drummond into the s\textsuperscript{st} trust in place of those deceast. And also they at least a quorum of them by their other deed of assumption dated the ninth and thirteenth days of Decem\textsuperscript{r} mvij\textsuperscript{r} & seventy-three and reg\textsuperscript{i} in the b\textsuperscript{o} of session the sixteenth day of s\textsuperscript{st} month did on account of the death of sev\textsuperscript{o} others of their s\textsuperscript{st} number assume the s\textsuperscript{st} Henry Home & George Drummond Home into the s\textsuperscript{st} trust in place of those other trustees also deceased. And further the s\textsuperscript{st} trustees did assume the said Sir James Pringle into the s\textsuperscript{st} trust in place of the s\textsuperscript{st} Sir Robert Pringle deceast his father conform to deed of assumption dated the thirteenth and fourteenth days of March mvij\textsuperscript{r} & eighty & reg\textsuperscript{i} in the books of session [C. M.] the fifteenth day of s\textsuperscript{st} month & year as the ext\textsuperscript{t} of the s\textsuperscript{st} sev\textsuperscript{o} deeds of assumption more fully bear. That in virtue of the s\textsuperscript{st} trust dispos\textsuperscript{d} and deed of settlement and powers thereby com\textsuperscript{t} to us. We the s\textsuperscript{st} Adam Drummond & the other assumed trustees did by our factors app\textsuperscript{t} by us intromit with & apply the subjects under trust as thereby directed. And whereas by the death of the said Marg\textsuperscript{r} Drummond only child of the s\textsuperscript{st} W\textsuperscript{m} Drummond which hap\textsuperscript{i} at Bath on the seventeenth day of August in the present year mvij\textsuperscript{r} & eighty-one the said trust is at an end and that by her death without late\textsuperscript{i} issue of her body the succession to the lands and other subjects remaining under trust devolves on Agatha Drummond of Blairdrummond wife of the said Henry Home and Mary Drummond wife of the s\textsuperscript{st} John Pringle as only surviving children of the s\textsuperscript{st} deceast James Drummond of Blairdrummond and heirs portioners of line & pro\textsuperscript{v} of the s\textsuperscript{st} W\textsuperscript{m} Drummond their uncle who are desirous that we sh\textsuperscript{d} denude ourselves of the s\textsuperscript{st} trust & of the subjects yrby committed to us & remaining under our manage\textsuperscript{m} in terms & according to the directions and app\textsuperscript{t} of the s\textsuperscript{st} deed of settlement which we are willing to do. Therefore wit ye us the s\textsuperscript{st} Adam Drummond & others assumed trustees before named to have assigned & dispossed as by these presents we assign and dispone to the s\textsuperscript{st} Agatha Drummond and Mary Drummond equally betwixt them as heirs portioners fores\textsuperscript{d} and to their heirs & as\textsuperscript{st} heritably & irredeem\textsuperscript{y} all and whole the lands of Grange called Abbotsgrange the lands of Bowhouse & lands of Newbigging comprehend\textsuperscript{d} these three tent\textsuperscript{b} built by the s\textsuperscript{st} W\textsuperscript{m} Drummond & the place lately built & adjacent yrto called Emiflats Rediflats & Amiflats possess by Bartholomew Morison Rob\textsuperscript{i} Bannatyne & And\textsuperscript{r} Gib tenants & possessors thereof tog\textsuperscript{t} with the teinds of the s\textsuperscript{st} whole lands included with towers fortalices manor places houses big\textsuperscript{r} yards orchards & pert\textsuperscript{i} lying win the shire of Stirling and that as principal. And sicklike these parts & portions of land with the parsonage & vicarage teinds yrto purchased & acquired by his Grace John Duke of Roxburgh from the sev\textsuperscript{o} persons feuars of the s\textsuperscript{st} Duke of Roxburgh & prop\textsuperscript{r} of the s\textsuperscript{st} lands conform to a contract of sale entered into betwixt him and the s\textsuperscript{st} feuars bear\textsuperscript{t} date the twelfth and twenty-third days of Jan\textsuperscript{v} & eighth day.
day of Febvri & seventeen all lying contiguous to his Grace the
s't Duke of Roxburgh his principal mansion house of Floors in the
shire of Roxburgh and bounded as follows, viz. By the river of
Tweed on the south eastward till ye come to Kelso Townhead from
thence northward all alongst by the west side of Kelso Broad Loan till
ye come to the road that leads from Kelso Broad Loan to Nenthorn
and from thence still northward on the left land to the Roundlawdib
and from the Roundlawdib directly westward as march stones are set
till it join the northeast corner of the s't Duke of Roxburgh his park
dike on the north side of the Floors and from thence southward on
the west all alongst the s't Duke his park dike and garden dike of the
Floors down to the Fair Cross. And in like manner all and whole the
Eighth part of the lands of Eastbars with the teinds parsonage &
vicarage thereof & pert of the same also purchas & acqu by the s't John
Duke of Roxburgh from Walter Harper portioner of Eastbars lying
contiguous to the s’t Duke of Roxburgh his prin’ mansion house of
Broxmouth win the constabulary of Hadd & Sheriffdom of Edin’.
conform to another con’t of sale ent into betwixt his Grace the s’t
Duke of Roxburgh and the said William Harper heart date the
. . . . . . . . . . . and that in special and real warrandice & security
of the s’t prin’ lands w’t the teinds yrif included & pert of the same so
that if it shall happen the same or any part thereof be evicted from the
s’t Agatha & Mary Drummonds or their heirs & succ’s at the
instance of any of the heirs of tallie succeed & or have right to succeed
to the s’t Duke of Roxburgh in his estate by virtue of the taillies
made by his pred’s thereof & the clauses therein cont’d de non alien-
ando under the irritancy therein express then and in that case the
said Agatha & Mary Drummonds & their s’t heirs & succ’s shall have
full & free access & recourse to the s’t warrandice lands with the teinds
& pert or so much yrif as shall correspond to the s’t eviction to
with all right title & in which we or any of us have or can claim &
pretend to the lands teinds & others before disposed or any part or
portion thereof in time coming. In which lands teinds & others prin’t
& in warrandice above disposed w’t the pert I the s’t Adam Drum-
mond and the other trustees hereto sub’s bind and oblige us to infekt
& sease the s’t Agatha & Mary Drummonds & their fores* upon their
own proper charges & exp’t To be holden from us of our immediate
lau’ sup’ of the same in the same manner and as freely in all respects
as we or the s’t Wnu Drummond or his authors held hold or might
have held the same ourselves and that either by resig* or confirm* or
either of the s’t infekt the one w’t prejudice of the other and for
that effect to make grant and subscribe & deliver to the s’t Agatha &
Mary Drummonds and their fores* prories of resig* precepts of sasine
& all other writs requisite & necess* the same being always to be
formed past & expedite on the proper ch’t & exp’t of the s’t Agatha &
Mary Drummonds & their fores* And for effectuating the s’t infekt
by resig* we the s’t Adam Drummond & other trustees before named
hereby make and constitute

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as use is to resign sur upgive overgive & deliver all & whole the forest lands of Grange called Abbotsgrange the lands of Bowhouse & lands of Newbigging comprehend these three tent built by the st Wm Drummond & the place lately built & adjacent thereto now called Biniiffs & Diniiffs & Amiiffs possesst by Bartholomew Morison Robert Bannatyne & Andrew Gib tenants & possessors yrof tog with the teinds of the said whole lands included with towers forlacies manor places houses big yards orchards & pert lying win the shire of Stirling and that as prin & And sicklike these parts & portions of land wth the parsonage & vicarage teinds thereof purchased & acquired by his Grace John Duke of Roxburgh from the sev persons feuars of the st Duke of Roxburgh & propr of the st lands conform to a con of sale ent into betwixt him & the sev feuars bearing date the st twelfth & twenty first days of Jan & eight day of Febr mviij & seventeen all lying contiguous to his Grace the st Duke of Roxburgh his prin mansion house of Floors in the shire of Roxburgh & bounded as part yments & in like manner all & whole the eighth part of the lands of Eastbarns with the teinds parsonage & vicarage yrof & pert of the same also purchased & acquired by the st John Duke of Roxburgh from Walter Harper portioner of Eastbarns lying contiguous to the st Duke of Roxburgh his prin mansion house of Broxmouth win the constabulary of Hadd & sheriifdom of Edin conform to anor con of sale ent into betwixt his Grace the st Duke of Roxburgh & the st Walter Harper bearing date the . . . . . . And that in special & real warrandice & security of the st prin lands with the teinds yrof included & pert of the same so that if it shall happen the same or any part yrof to be evicted from the st Agatha & Mary Drummonds or their heirs & suc at the instance of any of the heirs of taillie succeeds or have right to succeed to the st Duke of Roxburgh in his estate by virtue of the tailles made by his predecessors thereof & the clauses therein cont de non alienando under the irritancy wherein express then & in that case the said Agatha & Mary Drummonds & their st heirs & suc have full and free access & recourse to the st warrandice lands wth the teinds & pert or so much thereof as shall correspond to the st eviction tog with all right title & in whch we have or can claim or pretend to the lands teinds & others yments with the pert or any part or portion thereof in time coming. In the hands of our st immediate law sup or their st com in their names in favour & for new inf of the same to be made & granted to the st Agatha & Mary Drummonds equally betwixt them as heirs portioners forests & to their Swin her & her as said is in due & comp form acts instru & dec one or more as neces in the prem to ask lift & raise & gen every other thing in the prem to do use & exercise which we or our qhorum could do if pers present or which any other fior could law do yrantent wout revoca & sc. Which lands teinds & others hereby dispensed wth the pert wth this present right & dispos yrof prory of resig abovewritten & resig charter & infestm to follow yupon we oblige ourselves to warrand to the st Agatha Drummond & Mary Drummond & their fores from our own proper facts & deeds done or to be done in prejudice yrof. That is to say that we have not made or granted any other dispos or right of the prem prejudicial hereunto. But excepting always from this warrandice
dice all securities granted by us to the crės of the st deceast W* Drummmond in security of debts due to them or to any others for any sums of money bor* by us in pursuance of the afores* trust. And also except the tacks of the st lands & estate granted by us to the tent & poss* yrof for all the years & terms yrof yet to run of all which sums of money bor* by us as trustees fores* & securities granted for the same & oblig* yrin cont* & conditions & prestations pretable by us by the st takes the st Agatha Drummmond and Mary Drummmond and their afores* are by their accept* hereof bound & obliged to free & releive us & our fores* of all debts & oblig* still due & pretable by the st W* Drummmond & of all dam* & exp* we may happen to incur or sustain yrbby any manner of way. And further we hereby assign & dispone to the st Agatha Drummmond & Mary Drummmond and their fores* the whole writs & evidents both old & new of & concern* the lands teinds & others before dispone made granted or which can be any ways interpreted in favor of us or the st W* Drummmond or his authors any manner of way and part* the fores* dispos* & deed of settle* before narrated with the unexecuted prory of resig* & whole other clauses therein cont* & inst* of sasine follows yrupon in our favour with power to them & their fores* by virtue of the st unexecuted prory and of this present right thereto to obtain themselves validly infert & seised in the st lands teinds & others above dispone w* the pert* and also the rents mals farms profits & duties of the st lands & others hereby prin* dispone due & resting by the tenents & posse* yrof for the crop & year mvi* & eighty one and arrears of all preceed* crops toger* with the whole tacks of the st lands granted by us to each of John Kincaid John Gib senior, John Gib junior & W* Gib the present tenents & poss* yrof all dated the eighteenth day of Nov* mvi* & seventy six for twenty years from Mart* mvi* & seventy nine. And also ano* tack of a part yrof granted by us to Alex* Kincaid for twenty years commencing at Mart* mvi* & seventy nine dated the thirteenth & fourteenth days of March & fifth day of July mvi* & eighty with the whole tacks duties penalties & whole other clauses yrof and all action instance & e*leon follows or compt to follow upon the same. And further we hereby assign & dispone to the st Agatha Drummmond & Mary Drummmond & their fores* the sum of three hundred & thirty five pounds three sh* & one penny st* as the balance in the hands of Alex* Farquharson accomptant in Ed* our factor by an accompt aocqueted signed & settled by him & us on the eight day of August last. And also any sums in his hands rec* by him of the rents crop mvi* & eighty after deduction of any payt* since made by him by our order. And further all outstanding debts that may be due to the st W* Drummmond & not rec* by us w* the vouchers & securities of the same with power to the st Agatha & Mary Drummmond & their fores* to sue for implem* of the st tacks to uplift & receive the st rents & sums of money above assignd and to do all manner of legal diligence for implement & recovery thereof and in gen* to do every other thing in the prem* which we could have done before granting these pres*ents. And in token of the prem* we have herew* deliv* to the st Agatha Drummmond & Mary Drummmond the whole writs of the st lands and others hereby dispone toger* with two books conts* the sere* runs and whole transactions of our managem* & the fitted acco* of (40.)
our factors with the vouchers thereof and also all others papers and writings still remaining in our custody or in the custody of the st' Alex' Farquharson our factor belonging to the st' Alex' Drummond or respecting the st' trust. And for the more security we consent to the reg' hereof in the books of council & session or others competent ãrin to remain for preserv' and thereto constitute M' David Rae adv' our pror & attour to the effect the said Agatha Drummond & Mary Drummond & their fores' may be more readily infete & seized in the lands teinds & others before disposed to be holden by confirm' in manner fores' wout prejudice of the other infete ãrin I the st' Adam Drummond & the other trustees ãrin do hereby desire & require you . . . . . . . . . . . . . & each of you conv' & scally b' in that part fores' that upon sight hereof ye pass to the ground of the lands & others fores' rexively & successively after others & there- by give & deliver her' state & saise actual real & corp' possession of all & whole the lands teinds & others before written with the pert' prin' & in warrandice before disposed lying bounded & de- scribed in manner part' before exprest. To the st' Agatha Drummond & Mary Drummond equally betwixt them & their fores' by delivery to them or their certain att' or att' in their names bearers hereof of earth & stone of the ground of the st' lands a handful of corn & grass for the st' teinds & all other symbols necess' upon the ground of the same and this on nowys ye leave undone. The which to do we commit to you and each of you our full power by this our pre- cept of saise direct to you for that effect. In witness whereof these presents written on this and the six proceed pages of stamped paper by James Hay clerk to the st' John Pringle writer to the signet are sub' as follows viz. By us the said Sir James Pringle & M' John Pringle adv' at Edin' the third day of Sept' xvij & eighty one years before these writ' Harry Davidson writer in Ed' and the st' James Hay. By the st' John Pringle writer to the signet at Restalrig the said third day of Sept' & year fores' before these writ' the st' Harry Davidson and Robert Irvine my servant. By me the st' Adam Drum- mond at Bandirran the fourth day of Sept' and year fores' before these writ's Cap' John Drummond of the twenty sixth reg' of foot my son & Adam Aberdeen my servant. By me the st' George Drummond Home at Blairdrummond the twelfth day of Sept' said year before these writ's the st' Harry Davidson & Duncan Irvine my servant. (signed) Jas. Pringle John Pringle Jo. Pringle Adam Drum- mond Geo Drummond Home Harry Davidson witness James Hay witness James Hay witness Harry Davidson witness Robert Irvine witness John Drummond witness Adam Aberdeen witness Harry Davidson witness Duncan Irvine witness.

"That what is contained on this and the thirty-three preceding pages of stamped paper is faithfully copied from the Records in His Majesty's General Register House at Edinburgh is attested by me one of the Keepers of these Records.

(Signed) WILL ROBERTSON."

Then Mr. Wetherell stated, that to prove, in Confirmation of the Fact, that Agatha and Mary Drummond, Daughters of James Drummond, were upon the Death of Margaret Drummond sine liberis, on the 18th
28th of September 1781, served and retoured Heirs to their Uncle William Drummond of Grange, he proposed to put in the Retour.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Wetherell.) What have you there?

A Retour of the General Service of Agatha and Mary Drummond as Heirs Portioners of Line and Provision of the deceased William Drummond of Grange, their Uncle, dated the 18th of September 1781.

Is that in your own Hand-writing?

It is.

Copied by you from the Original?

It is; I copied it, and then compared it.

The same was delivered in, and read as follows:

"CHANCERY RECORD, BOOK LXXXIV. FOL. 398.

"HAEC Inquisitio facta fuit in Curia Balivatus burgi de Edin" tenta in nova Sessionis domo dicit burgi coram hono" viro Carolo Walace

vno ballivorum dicit burgi decimo octavo die mensis Septembris A.D.

millesimo septingentesimo et octogesimo primo per hos probos et

fideles homines patriae viz' M' Hugonem Buchan scribam in Edin'c

cancellarium M' Joannem Pringle advocatum Thomam M' Leay

Thomam Leslie Jacobum Rae Robertum Playfair Jacobum Laing

Robertum Tennant Henricum Davidson et Joannem Watt omnes

scribas in Edin' Arthurum Forbes Jacobum Cameron Gulielmum

Lindsay Gulielmum Fleming et Robertum Wilsone omnes incolas

ibidem Qui jurati dicunt magno sacre" interveni i quod quond

Gulielmus Drummond de Grange patruus Agathae Drummond uxor

Henrici Home armigeri de Kalms unius ex senatoribus collegii justi-

ciae et Marie Drummond uxor Joannis Pringle armigeri scribae

signeto regio filiarum et unicularum prolum in vita demortui Jacobi

Drummond de Blair-drummond fratris germani dicit quond Gulielmi

Drummond obit ad fidem et pacem S.D. N. Regis Et quod per

decessum Margaritae Drummond filiae et unicae prole dicit quond

Gulielmi Drummond sine liberis ex suo corpore legitime procreat dicit

Agatha Drummond et Maria Drummond latricis pr'ium sunt legitime

et propinquiores heredes portionariae inae et etiam provisionis in

generali dicit quond Gulielmi Drummond earum Patru secundum et

in terminis dispositiones et destinationes perfect per dicit quond Guliel-

mi Drummond de data vigesimo primo die Maii A.D. millesimo

septingentesimo et trigesimo sexto et registrat in libris concilib et

sessionis quarto die Augusti A.D. millesimo septingentesimo et tre-

gesimo septimo Ex' ab libris actorum curiae burgi per me Sic subs'

JOS. WILLIAMSON."

"Haec
"Hac est vera copia principalis Retornatus super premisis in Cancellaria S. D. N. Regis remanent extracti copia et collat per me Thomam Miller sub Jacobii Dundas dep't presbore Jacobi S' Clair Erskine Comitis de Rosslyn ejusd Cancellarum directoris sub hac mea subscriptione.

(Signed) Thomas Miller, Sub."

Then Mr. Wetherell stated, that to prove that Patrick Home, the youngest Son of Sir Andrew, died before his Brother, he proposed to put in an Adjudication against John Home, as only lawful Son of Sir Andrew Home of Kimmergham.

Then George Home, Esquire, was further examined as follows:

(By Mr. Brougham.) Have you an Office Copy of an Abbreviate of Adjudication upon a Summons and Action raised at the Suit of James Ballantine of Halieie, against John Home, only lawful Son of the deceased Sir Andrew Home of Kimmergham?

I have.

What is the Date of it?
The 7th of June 1732.

Did you make that Copy yourself?
Yes, I did.

You swear, that it is an accurate Copy of the Record?
It is.

The same was delivered in, and read as follows:

"Register of Abbreviates of Adjudications.—15th June 1732.

"At Edinburgh the seventh day of June I c9 vii and thirty two years, upon a summons & action of adjudication on a Cognitionis causa raised & pursued before the Lords of Council & Session at the instance of James Ballantine of Halieie agst John Home only lawful son to the decease Sir Andrew Home of Kimmergham & as lawfullie charged to enter heir to, and who renounced to be heir to him, in manner underwritten and his tutors & curators if he any has for their interests The said Lords by their decree of adjudication of the date of this presents adjudged decerned and declared All & haim the lands & barony of Kimmergham & mains thereof containing & comprehending the towns and lands of Dunsteil Belsheil Blyth-bank Midlestotes Alicefield otherways called Greenknow Kingslaw & Sinclairshall with ye milns of Kimmergham mtnlands multures & sequells of ye same with houses biggings yards tofts crofts parts pendicles & pertinents thereof lying within the regality of Buncle & Prestoun & sherifdomes of Berwick As also all & haim the lands of Redheugh extending to the eight part of the barony of Blackadder which are retoured at fifty shillings Scots money of old extent as the eighth part of twenty pounds money forsaid as the retoured duty of the said barony of Blackadder Together with the tower fortalice mannor place houses biggings yards orchards parts pendicles and haim pertinent of the same Togethe with the tsands of ye forsaid lands
lands of Reidough with the burden always of ye pay't of the ministers stipend & bensch dutie if any be yearly for the said teinds in all time coming as the saids lands & teinds were posset by James Brown tennant thereof. All lying within ye barony of Blackadder parochin of Edrom and sherrifdom of Berwick And by an charter under the great seall in his favours dated the 14th day of March 1718 years the forsaid haill lands & pertinents thereof are all unite & incorporatt in an full & free barony called ye barony of Kinnergham ordained to be the priett messuage and a seasin to be takin therat to be sufficient for the haill lands with the haill rights and securities of ye lands & others forsaid both old & new granted to ye st decaest Sir Andrew Home or his predecessors cedents & authors or introduced and conceived in their favours or any ways competent or that might be competent to them or to the said John Home had he entered & not renounced to be heir to his said father as said is of & concerning ye same Together with ye mailts & duties of ye saids lands & oy's forsaid cropt and year of God . . . . . . . . . . . . . . . . and in time coming and all tacks & other rights of the teinds of ye saids lands or annuities of the said teinds To pertain and belong to the said James Ballantine pursuer his heirs or assignees whatsomever heretabic in paym' & satisfaction to them of the sum of thirteen hundred and seventy five merks Scots money of priett two hundred merks money forsaid of liquidatt expences incurred thro' failie & ärent of ye said priett sum of all time bygone resting unpaid from & since the 14th day of June 1726 years contained in the bond libelled on granted by the said deceast Sir Andrew Home to ye purr and in the decreet cognitionis causa also libelled upon obtained at the said pursuers instance ag't the said John Home defer extend in haill to the said principall sum penalty & ärents at ye date hereof to the sum of thirteen hundred and twenty four pounds Scots money salvo justo calculo & of the ärent of the said accumulate sum from the date herupon during the not redemption And that by & attour the composition to the superiors & expences of the infestments to follow herupon And decreed & ordained the said pursuer & his forsaiis to be entred infete & seased in ye lands and others ämentioned by the respective immediat superiors therof To be holden of them sicklike & as freely in all respects as the st decaest Sir Andrew Home held the same or as the said John Home might have holden ye same had he entered & not renounced to be heir to his said deceast father in manner libelled And ordaine letters of horning on twenty one days charge & all other exells needfull to pass and be direct thereupon ag't the superiors of the lands & others forsaid for entring & infesting the said pursuer and his forsaiis therintill Of which decreet of adjudication this is one of the two abbreviates signed upon this and the three preceding pages by the Lord Roy- stoun pronouncer therof To be recorded in ye Bill Chamber in place of the allowances formerly in use conform to the Articles of Regulation & Acts of Sederunt made theranent Sic sub


A. STEWART Ext.'"
"That what is contained on this and the preceding five pages of stamped paper is faithfully copied from the Records in His Majesty's General Register House at Edinburgh is attested by me one of the Keepers of these Records.

(Signed) WILL. ROBERTSON."

Then Mr. Brougham stated, that he proposed next to give Evidence in relation to the First Class of Collaterals; and that to prove Colonel Alexander Home the Second Son of Sir Patrick Home, the Sixth in the Pedigree of Polwart, and who was Brother of Patrick the First Earl of Marchmont, died in the Prime of Life, without Issue, he proposed to put in Craufurd's Peerage of Scotland.

Mr. Attorney General having objected to the Production of this Book in Evidence.

Mr. Brougham was heard to submit, that contemporary Histories are Evidence in the Scotch Courts, and also in Cases of Pedigree in which Scotch Property or Scotch Titles are in question.

The Counsel for the Claimant were asked, whether they meant to contend, that the Admission of Evidence of Declarations was not confined to the Declarations of Relations of the Family, but that that which was stated by any contemporaneous Historian was Evidence.

Mr. Brougham stated, that that was what he contended for, and in which he conceived himself to be borne out by Erskine's Institutes, to which he proposed to refer; but the same not being at Hand at the Moment, the Counsel were directed in the meantime to proceed with other Evidence.

Then Mr. Brougham stated, that in Confirmation of the Fact which he proposed to prove by Craufurd's Peerage of Scotland, he would prove, that on the 31st of January 1704 Earl Patrick expedite a Charter, containing a Settlement of the Estate of Marchmont, dated the 20th of June 1700, in which, failing Heirs of his own Body, his Heirs Male whomsoever are called to the Succession.

Then GEORGE HOME, Esquire, was further examined as follows:

George Home, Esq. (Mr. Brougham.) What is that in your Hand?
An Office Copy of a Charter by Queen Anne to Patrick Earl of Marchmont, in Life-rent, and Patrick Lord Polwart his eldest Son, and the Heirs Male of his Body, dated the 31st of January 1704.

This is not in your Hand-writing?
It is not.

Where did you get this from?
From the Register of the Great Seal.

It appears to be signed by Alexander Robertson?
Yes, he was the Keeper at the Time that was taken.
Did you compare this Copy with the Original?
I compared it carefully with the Original.
And you found it to agree?
I found it to agree.

Cross-examined by Mr. Attorney General.

How did you compare it with the Original?
I believe I read the Record, and Mr. Robertson looked upon the Principal.

Mr. Attorney General submitted, that there was not sufficient Evidence of the Accuracy of the Copy.

Mr. Brougham requested leave to tender it as an Extract attested and authenticated by the proper Officer, stating himself to be such; and referred to the Act of the Parliament of Scotland in the Year 1617, Cap. 16.

The Lord Advocate of Scotland submitted, that the Anxiety shewn by the Legislature to define those Descriptions of Writings to which the Rule was applicable, must be considered as intended to exclude all others; and that the Charters referred to by the Act were Charters by Subjects.

The Counsel were asked, whether the Question was not of this Nature, viz. Whether the Acts referred to put the Charters of Subjects upon the same Footing upon which the Charters of the Crown were before those Acts passed; and that if so, it would be material that the Committee should be informed, what had been the Usage in Scotland in respect of Crown Charters.

The Lord Advocate submitted, that it was only where a Person was legally empowered to give out Extract and Copies that his Certificate could avail.

The Counsel for the Petitioner were informed, that if they proposed to raise an Inference from the supposed Practice in the Courts of Scotland, to give Faith to such Extracts, it would be proper that they should give Evidence of such Practice.

Then WILLIAM BELL, Esquire, was again called in, and further examined as follows:

(Mr. Brougham.) Are you acquainted with the Course and Practice of the different Register Offices in Scotland?
Generally speaking, I believe I am.

Is there any Difference made in Practice between an Extract furnished by one of those Offices, and an Extract furnished by any others?
I can hardly answer that Question without going into detail, because Extracts, generally speaking, in Scotland, almost without any
any Exception, are received upon the same Footing as the Original, except Improbation be averred.

You mean, unless a Question arises whether the Original be forged or not?

Yes, and without considerable Deliberation I could not specify at this Moment any Exception to that general Rule, unless such Exception were pointed out to me by a Question.

An Extract, for Example, from the Register of Seisins, given by the proper Officer; is that dealt with, generally speaking, as an Original?

That is received, and makes Faith in Evidence, in virtue of the Act of Parliament of 1617, Cap. 16.

What is the Case as to an Extract of a Retour in Chancery given by the Director of Chancery, or his Deputy?

That also is received, and makes Faith in Evidence; and I am not aware of any Instance in which it has been objected to for upwards of a Century.

An Extract of a Record of a Charter in Chancery?

There is a Difficulty upon that Point, because the Records in Chancery do not bear Evidence of the Fact of sealing; and there is a more recent Act of Parliament which provides, that all Extracts of Charters which do bear Evidence of that Fact shall be so received, and make Faith in Evidence, whether the Record of the Charter bears Evidence of the Fact of its being sealed or not.

Is it the Practice to give Extracts from the Chancery of all Charters there recorded, without reference to whether they are sealed or not?

Undoubtedly it is.

(By a Lord.) Crown Charters or others?

Yes.

(By Mr. Brougham.) Are those Extracts dealt with in the same way as Extracts of which you have spoken, of Retours and Seisins?

They are so dealt with, if they are not objected to upon the Point I have now mentioned.

You mean the Point of sealing?

Yes.

With respect to the Record commonly called The Books of Session and Council; are Extracts given of the Deeds recorded there in like Manner?

Universally; those Deeds which bear the Clause, called in Scotland the Clause of Registration, are entered by virtue of that Clause, and the Consent of the Parties, in the Books of Council and Session; and they are held, in technical Language, and according to the Practice of the Country, to be ingrossed in the Decree of Court; and are signed by the proper Officer giving forth that Decree; the Deeds remain in the Custody of the Court; they cannot be recovered except by the Authority of the Court.

The
The Officer gives Extracts of the Deeds so recorded? Does the like Practice prevail with respect to Extracts from the Proceedings of the Commissary Courts? Are such Extracts given by the proper Officer in his own Name? And dealt with in the same Manner as Extracts of Seisins and Retours? Yes.

Cross-examined by the Lord Advocate.

Are those Extracts Copies of the Deed itself, or are they Copies of the recorded Copy of the Deed?

It depends upon Circumstances how I can answer that Question; it must relate entirely to those particular Records to which the Question refers.

The Records from the Great Seal?

They are not Copies from the Original; they are Copies from the Record which is made in the Register of the Great Seal, and from which the Copies are given out.

Does it appear from the Extract of a Deed of this Description, whether the Great Seal has been appended to it or not?

I can speak to each Extract when I see it; but for the most Part it does not, previous to a certain Date.

Look at this Extract which has just been produced?

(The Witness inspected the same.)

There is no Evidence here that the Great Seal has been appended, from the Manner in which the Charter closes.

(By a Lord.) That is the Sort of Extract that there would be an Objection to, according to your former Evidence?

That is a Sort of Extract not precisely in Conformity with the more recent Acts of Parliament to which I have referred; whether that would or would not be admitted is a Matter of Argument upon that Act.

What is the Act to which you refer?
The Act of 49 Geo. III. Cap. 42.

The Counsel were informed, that it appeared to the Committee that the Meaning of the Act of 49 Geo. III. Cap. 42, s. 16., was, that an Extract of a Record, provided it was proved that the Fact of Date and Sealing was duly recorded, would be Evidence; that it would be another Question, Whether a Deed making mention of the Fact of Date and Sealing, an Extract of a Record that has in Truth a Date and Sealing, could be produced, that Fact being to be proved aitoute?

(40.) R Mr.
Mr. Brougham submitted, that though it might not in such Case be Evidence under the Act of 49 Geo. III., it might be so independently of that Act, in conformity with the general Practice of the Courts of Scotland.

The Counsel for the Petitioner were informed, that they were at liberty to shew that Fact.

Mr. Brougham submitted, that by the Act of the Parliament of Scotland, 1469, Cap. 39, the Record of a Charter becomes of the same Value with the original Charter.

The Counsel were informed, that it appeared to the Committee that the Effect of that Act was, to render the Books therein referred to equivalent to the Roll; but that what would be Evidence of the Contents of the Books was just as much a Question, as what would be Evidence of the Contents of the Rolls.

Then WILLIAM BELL, Esquire, was further examined as follows:

(William Bell, Esq.) By a Lord. You have stated, that you referred to the Difference between Extracts stating the Date and the Fact of Sealing, and those which did not state the Date and the Fact of Sealing; do you mean to say, that Extracts which do not state any thing of the Date and the Fact of Sealing, do make entire Faith in Evidence?
I do not.

(By Mr. Brougham.) Do you mean to answer that Question with reference to the Act of 49 Geo. III., or independently of that, and as it were at Common Law, before the passing of that Statute?
I must again crave Permission to make a very short Explanation; I believe that there are not a great many Causes in Scotch Practice where Extracts so produced have been disputed; but where they have been so disputed, they have not been received.

The Counsel were informed, that it did not appear at present to the Committee that this Office Copy could be received in Evidence; but that it should be made Matter of further Consideration.

The Witness was directed to withdraw.

Then Mr. Brougham stated, that he should next give Evidence with reference to the Three younger Sons of Sir Patrick Home, the Fifth in the Pedigree of Polwart, and their Descendants, Thomas, George, and Robert, to shew that the Issue of those Three Brothers failed.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) What have you in your Hand?
An Office Copy of an Instrument of Seisin in favour of Mr. George Home of Batahieil, Brother-german of Sir Patrick Home of Polwart, in the Lands of Kinmergham, 30th September 1637.
Is it in your own Hand-writing?
It is.

Did you compare this with the Original?
Yes, I did.

The same was delivered in, and read as follows:

"GENERAL REGISTER OF SEISINS, BOOK XLVI. FOLIO 338.

"At Edinburghe the aught day of November I 96 sex hundredthre and thretie sevin yeiris the seasing following was product and registra in the bookes of generall register or sessione appointit for registratione of seasinges reversiones and wtheris writit. In the 46 book thairos conforme to the act of parliament made yanet in anno 1617 q'of the tenor follows. In Dei nomine amen per hoc pus publicum instrumentum cunctis pateat evidenter et sit notum Quod anno incarnationis dominicæ millesimo sexcentesimo trigesimo septimo mensis vero Septembris die vltimo ac regni excellentissimi et potentissimæ principis tunc S. D. N. Caroli Dei Gratia Magne Britannie Francie et Hybernie regis fideiæ, defensoris anno decimo tertio. In mei notarii publici et testium subscriptorum pœtiæ personaliter discretus vir Alexander Home de Rowingstoune ballivus in hac parte honorabilis viri Williæmi Home de Aytoune per ejus preceptum sassine subinsertum specialiter constitutus ad solum et fundum terrarum ac molendini molendini subscript rexeve et successive accessit. Et ibid comparuit honorabilis vir magister Georgius Home de Beatscheill frater germanus domini Patricii Home de Polwart militia baroneti Habens et tenens in suis manibus quondam cartam alienationis preceptum sassine subscript in se contineœ factam et concessam per dictum Williæum Home de Aytoune cum speciali consensu et assensu domine Catharine Home eis matris relictæ quondam domini Joannis Home de Dunce militis ejus patris domine conjuncte infeodationis saltem vitalis redditus dictarum terrarum aliarmam, subscript ac etiam cum consensu et assensu domini Joannis Home de Blaccader militis nunc sponsi dicte domine Catharine Ipsosq. omnes vnanimi consensu et assensu pro omnibus eorum juribus et interesse quibuscunque, quas seu quæ habent seu habere vel pretendere poterint. In et ad aed terras et molendinum rexeve subtilius specificatas prefato magistro Georgio Home heredibus suis masculis et assignatis quibuscunque, hereditarie et irredeemabiliæ absq. reversione obligatione promisso provisione conditione reversionis redemptione aut regressu quocunque, de totis et integris terris suis de Kymerghame cum domibus edificiis horis tofis croftis partibus pendiculis et pertinæ quibuscunque, eisdem justæ spectantibus necnon de tota et integra dimidiatæ molendini granarior occidentalis de Kymerghame vocat lie westere mylne of Kymerghame cum terris molendinaris astrictis multuris sequelis et aliis suis pţinei jacei in baronia de Bonkill et Prestoune regalitate ejusæ et infra vicecomitatum de Bervick prout in dicta carta desuper confecta latius continetur Quamquidem cartam preceptum sassine in se continei dictus magister Georgius Home prefato Alexandro Home ballivo in hac parte prescripto presentavit et deliberavit eumq. requirabat pro debita executione eiusdœ sassine precepti in dicta carta continenti sibi finendo. Qui vero ballivus dictam cartam in manibus suis
suis recepti. Et eandem mihi notario publico subscribem perlegendum publicandum tradidit cujus sisine precepti in dicta carta contenti tenor sequitur sub hac forma. In super dilectis nostris Alexandro Home de Rowingstoune. Et vestrum cuilibet conjunctum et divisim ballivis nostris in hac parte specialiter constitutis saltem. nobis precipimus et firmiter mandamus quatenus visis optibus indilate Statum sasimam hereditarium pariter et possessionem realem actualit et corpartem totarum et integralum predictarum terrarum de Kymergham cum domibus edificis hortis croftis partibus pendiculis et ptineh quibuscumque eisdem. justae spectantibus necnon totius et integre dicti dimidiatatis dicti molendini granarii occidentalis de Kymergham vocat lie, wester mylne of Kymergham cum terris molendinariis astrictis multuris sequelis et aliis suis pertineh jaceh ut supra. Et reservanvt ut prious reservatur memorato magistro Georgio Home vel suo certo actornato optium latori per terre et lapidis fundi dicti terrarum et lie clap dicti molendini in suis manibus. ut moris est traditionis et deliberationis secundum tenorem optius carte nostre quam de nobis inde habet traditis delibaretis et justae habere faciatris sine dilatatione. Et hoc nullo modo ommittasi. Ad quod faciendum nobis et vestrum cuilibet conjunctum et divisim ballivis nostris in hac parte antedictis nostram plenaram et irrevocabilem tenore optium cumjimini potestatem. In cujus rei testimonium optium exchyrographo magistri Jacobi Cheyne servitoris Roberti Pringill scribe signetio regi manibus nostris subscriptis sigillum meidicti Williemi Home de Ayton est appensum apud Ed. vigesimo septimo diebus mensis Maii et anno dominii millesimo sexcentesimo trigesimo septimo. coram hiis testibus Williemo Butter filio legittimo quondam Patricii Butter de Gormok Williemo Home de Linthill dictis Roberto Pringill et magistro Jacobi Cheyne ejus servio testibus ad subscriptionem mei dicti Williemi Home de Ayton apud Ed. primo die supra mentionai. Sic sub William Home W. Butter witnesses Williami Home witness, Ro Pringill witness M. James Cheyne witness Post cujusquidem carte et sasine precepti superscripti in eadem contenti perlecturam et pub. licationem memoratus Alexander Home ballivus antedictus virtute et vigore dicti sui balliatus officii sibi in hac parte comissi ac ejusd precepti sasine prescripti statum sasimam hereditarium necnon possessionem realem actualit et corpartem totarum et integralum predictarum terrarum de Kymergham cum domibus edificis hortis croftis partibus pendiculis et pertineh quibuscumque eisdem. justae spectantibus necnon totius et integre dicti dimidiatatis dicti molendini granarii occidentalis de Kymergham vocat lie, Wester Mylne of Kymergham cum terris molendinariis astrictis multuris et aliis suis ptineh jaceh ut supra [Reservanvt ut prious reservatur] Prefatio magistro Georgio Home personaliter optius et acceptanti per terre et lapidis fundi dictarum terrarum et lie clap dicti molendini ut moris est tradicio- onem et deliberationem secundum tenorem predictae cartae precepto, sasine superscripti in eadem contenti dedit tradidit pariter et cum effectu delibavt. Super quibus omnibus et singulis premis premiatus magister Georgius Home a me notario publico subscribii sibi fieri petit hoc pros publicum instrumentum seu plura instrumenta publica Acta erant hic super solis et fundis predictarum terrarum et infra predictum molendinum rexive et successive horas inter primam et secundam post meridiem aut eo circa sub anno die mense et regno quibus
quibus supra ãtibus ibiã Roberto Tod in Kymerghame toune Davide Forsythe ibiã Williemo Forsyth in Kymerghame Maynes et Georgio Arthoir ibiã testibus ad premissa rogatis et requisitis Sic sub. Et ego vero Bartholemeo Samsonc clericus Sancti Andree diocesis authoritate regali ac per dominos consiliii et sessionis S. D. N. regis secundum tenorem acti parliamenti visus admissus et creatus notarius publicus Quia omnibus et singulis premisi dum hic agerentur dicentur et fierent vnacum prénominiis testibus interfui eaq. omnia et singula supra scripta sic fieri vidi scivi et audiivi ac in notam cepi Ideoq. hoc ãns publicum instrumentum manu mea proprich fideliter script exinde confeci signoq. nomine et cognomine meis solitis et consuetis signavi In ãdem et testimonium omnium et singulorum premissorum rogatus et requisitus."

"That what is contained on this and the Seven preceding Pages of stamped Paper, is faithfully copied from the Records in His Majesty's General Register House at Edinburgh, is attested by me, one of the Keepers of these Records."

(Signed) WILLIAM ROBERTSON."

Then Mr. Brougham stated, that to make out that Robert, the Third Son, died before 1623, and without Issue, he should prove that on the 12th of April in that Year George, his Brother, was enfeoffed in Hawkslaw, upon a Precept of Claret Constat, by William Home of Darnchester, and James his eldest Son; wherein George was stated to be the Heir of Robert Home, his immediate younger Brother.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) What is that in your Hand?

An Office Copy of an Instrument of Seisin in favour of George Home, in the Lands of Hawkslaw, proceeding on a Precept of Claret Constat to him, as Heir of the deceased Robert Home his immediate younger Brother, Son of the deceased Sir Patrick Home of Polwart, Knight, dated the 12th of April 1623.

Is that in your own Hand-writing?

It is.

Did you compare it with the Original?

Yes.

Is it a true Copy?

It is.

The same was delivered in, and read as follows:

(40.) S "PAR
"PARTICULAR REGISTER OF SEISINS, BERWICK, BOOK II. FOL. 87.
Vigesimo sexto Maii 1628.

"GEORGE HOME bry' to the Laird of Polwart his seissing of the lands of Graden and vther producet be Robert Muder ne notar and regrat conforme to ye Act of Parlament qu'off ye tenens followes.

"IN DNI noie Amen per hoc publicum instrumetum cunctis potest evident er et sit notum quod anno incarnatione dominice millesimo sexcentesimo vigesimo tertio mensis vero Aprilis die duodecimo ac regnorum S. D. N. Jacobi Magne Britanie Francie et Hibernie Regis illustrissimi annis quinquagesimo sexto et vigesimo primo In mei notarii publici et testium subscriptorum presentia psalmi discretus vir Johannes Trottar de Fonouik balliuis in hac parte discreti viri Jacobi Home hereditarii proprietarii terrarum subscripti ac domini superioris earund per ejus sassine preceptum subintem speciali constitutus ad sola et funda terrarum subscriptorum aliorum, rex* subscripti accessit et ibidem honorabilis vir Patricii Home de Polwart certus actornatus probi viri Georgii Home fratris germani et heredis quondam Roberti Home filii legittimi quondam Patricii Home de Polwart militis comparuit. Habens et tenens suis in manibus quod per preceptum sasine factum et concessum per dictum Jacobum Home prefeito Georgio Home tanquam fratris et heredi antedict de totis et integris terris de Halksaw cum domibus edificiis hortis partibus pendiculis et earundem pertinere existent propriam partem et pertinet terrarum de Darnerea iacent in comitatu Marchie baroniae de Kilay et vicinum tabicum de Bervick tanquam pro principali necnon de totis et integris reliquis terris de Darnerea cum domibus edificiis lie outsetta et earundem pertinente ac etiam de tota et integra tertia parte omnium et singularum terrarum de Gradane cum turre et fortificio desup constructo manerei domibus edificiis hortis pomariis et piscaria usu edem tertie partis sup aquam de Tued vt dictem est iacenti et hoc in speciali warrantum et securitate predictarum terrarum de Halksaw cum earundem pertinente antedict casu evictione earundem pro eicto precepto desup confacto latius continentur quodquidem preceptum dictus Patricius Home de Polwart certus actornatus dicti Georgii Home dicto Johanni Trottar balliui antedicto in hac parte presentavit eumq. requiret pro debita executione eiusde precepti sassine ibi fienda Qui vero balliuis dictum preceptum sasine in manibus suis recepit et mihi notario publico subscribi perlegend et publicand tradidit cuius precepti tenor sequitur; Magister Wilhelmius Home de Darnesel et Jacobus Home me* filius primo genus hereditario proprietario terrarum subscriptarum ac domini superioris earundem dilectis nis Johanni Trottar de Fonouik et vestrum cuius conjunctum et divisim balliuis nis in hac parte speciali constitutis salutem Quia nobis clare constat per authentica documenta et alias evidencias satis notum est quod quondam Robertum Home filius legitimum quondam Domini Patricii Home de Polwart militis frater germanus immediate junior Georgii Home latoris etium obiit vltimo vestitvs et sasitis vt de seco ad pacem et fidem S. D. N. Regis in totis et integris terris de Halksaw cum domibus edificiis partibus pendiculis et earundem pertinere olim per
per Johannem Dikesone possessor et occupator existens propriam partem et pertinenciam terrarum natarum de Darncesh Jaceeni in comitatu de Marche baronio de Kiley et infra vicemcomitatum de Beverick tanquam pro principali necnon in totis et integris terris nostris de Darncesh cum domibus edificiis et lie outaccis et earundem pertinea. Ac etiam in tota et integra tertia parte omnium et singularum terrarum de Gradun cum turre fortalicio desupc constructo manerie domibus edificiis hortis pomariis et piscaria eiusdem tertie partis supra aquam de Tweid vt dictum est Iaceeni. Et hoc in specialie warrantum et securitatem predictarum terrarum de Halkswal cum domibus edificiis hortis partibus pendiculis et earundem pertinea casu evictionis earundem. Et quod dictus Georgius est frater legitimius et propinquior heres deservitus et retornatus dicti quondam Roberto Home sui fratris immediate junioris de omnibus et singulis prescriptis terris alisq. specialiis rex xiiii suprmentionatis et quod est legitime etatis et quod onnues et singulie terre predicte de Halkswal cum domibus edificiis hortis partibus pendiculis et pertinei earundem existent et Iaceeni vt supr pro principali. Et predicte relique terre nere de Darncesh cum domibus edificiis lie outacis et earundem pertinea. Ac etiam tota et integra dicta tertia pars omnium et singularum terrarum de Gradun cum turre fortalicio manerie domibus edificiis hortis pomariis piscaria alisq. prescripta in warrantum et securitatem dictarum dictarum terrar am de Halkswal disposit. De nobis tanquam dominis superioribus earundem tenetur in capitie prout in evidentiis et scriptis dicto quondam Roberto Home desup confectis nobis ostendis et per nos intellectis plenius continetur. Vobis igitur et vestrum cuiubet conjunctum et divisim battis nris in hac parte antedicta firmiter precipimus et mandamus quatenus visis pontibus indilate Statum sasinn hereditarium pariter et possessionem corporalem actualam et realem totarum et integrarum terrarum predicte de Halkswal cum domibus edificiis hortis partibus pendiculis et earundem pertinei existent proprii partiae et pertinei dictarum terrarum natarum de Darncesh tanquam pro principali Neceon totarum et integrarum reliquorum predictarum terrarum natarum de Darncesh cum domibus edificiis lie outacis et earundem pertinea. Ac etiam totius et integre predicte tertie partis omnium et singularum terrarum de Gradun cum turre et fortalicio desupc constructo manerie domibus edificiis hortis pomariis et piscaria eiusdem tertie partis supra dicta aquam de Tweid vt dictum est Iaceeni et hoc in speciali warrantum et securitatem vt premissititur prefato Georgio Home vel suo certo actornameIatori pontium per terre et lapidis fundi dictarum terrarum ut moris est traditionem et deliberacione secundum tenorem infesomamentoru dicto quondam Roberto Home desup confecto et sub reversione in eisdem contenient iuste deliberatis et concedatis. Et hoc nullo modo omittatis. Ad quod faciend vobis et vestrum cuiubet conjunctum et divisim battis nris in hac parte antedictis nostram plenaram et irrevocabilem tenore pontium committimus potestatem. In cujus rei testimoniui huic ponti precepto nostro ex chirigrapho Roberto Mudei notarie publici in Dunce manibus nris subscripsit. Signilla nostra propria sunt apensa apud Dunce et . . . septimo et . . . diebus mensis Aprilis et . . . anno domini millesimo sexcentesimo vigesimo tertio coram his testibus Johanne Trottar in Fogomuck Roberto Mude Johanne Purves ejus servos J. Home Johane Trottar witness Ro. Mude testis Johane Purves witness Post cujus quidem precepti.
precepti sasine perlecturiam publicationem et in vulgari expositione prefatus Johannes Trottar baltius in hac parte antedictus virtute et vigore dicti sui officii balliusus per eius modi preceptum sibi commissi statum sasianum hereditariorum pariter et possessionem corporalem actualem et realem totarum et integrarum predictarum terrarum de Halklaw cum domibus edificiis hortis partibus pendiculis et earundem pertineei pro principali necnon totarum et integrarum predictarum terrarum reliquarum de Darnchef cum domibus edificiis cælie outset et earundem pertineei Ac etiam totius et integre predicte tertie partis omnium et singularum terrarum de Graden cum turre et fortalicio desup construct manerie domibus edificiis pomariis hortis et piscaria eiuscæ tertie partis supra dictam aquam de Tweid vt dictum est jaceat et hoc in speciali warrantum et securitate vt premissitur memorato Patricio Home de Polwart certo actornato et eo nos dicti Georgii Home tanquam fratris et heredis antedicti per terre et lapidis fundi omnium et singularum terrarum dictarum réxstitve et successive traditione et deliberatione secundum formam et tenorem prescripti precepti sasine dedit contulit pariterque et cum effectu deliberavit Super quibus omnibus et singulis premisis prefatus Patricius Home de Polwart certus actornatus et eo nos dicti Georgii Home a me notario publico subscribui sibi fieri petit hoc pós publicum instruém meo publica instruém unui seu plura Acta erant hic sup solœ et funda omnium et singularum dictarum terrarum terrarí réxstv et successive vzd supra funda dictarum terrarí de Halklaw et Darnchef hora decima ante meridie aut eo circit et sup solum et fundum dictarí terrarí de Graden hora undecima sub anno die mense et regnis quibus sups ãntibus ibidem Roberto Home in Reidbrayes Thoma Aitkein in Halklaw Patricio Thomson in Darnchef et Thoma Qhullhous in Leitbray Jacobo Corsar in Graden Georgio Home fratre germano dicti Maãri Villiemi Home de Darnchef testib réxstv ad premissa vocatis pariterque rogatis et requisitiis Et ego vero Robertus Mude Sæ Andree dioecesis authóritate regia notarius publicus ac per dominos consili et sessionis secundum tenorí acti parlementi examinati et admissus quia premisis omnibus et singulis dum sic vt premissitur diérentur agentur et fierint vnacum prenóliatis testibus presens psosanit adfii eaq omnia et singula supra scripta sic fieri et dici scivi vidi et audivi ac in notam cepi ideaq hoc pós publicum instruém meo Johannis Purvis mei servî fidelií scriptum in hanc publicam instruém formam redigi signó, nos cognosce et subscriptione meis solitis et consuetis in fidem et testimonium omnium et singularum premissorū rogatö et requisitö roboravit."

"That what is contained on this and the Ten preceding Pages of stamped Paper, is faithfully copied from the Records in His Majesty's General Register House at Edinburgh, is attested by me, one of the Keepers of these Records."

(Signed) WILL. ROBERTSON."

Then Mr. Brougham stated, that to prove that Robert, the Son of George Home of Kimmergham, had a Son Robert, who had died before 1684, leaving a Son George, he should put in a Retour, dated the
the 6th of May 1684, by which he was served and retoured Heir in
Special to George Home his Grandfather, in Kimmergham; and
should prove, that on the 11th of June he was enfeoffed.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) What have you there?
An Office Copy of a Retour of George Home of Kimmergham,
as Heir of the deceased George Home of Kimmergham, his Grand-
father, dated the 6th of May 1684.

Is it in your own Hand-writing?
It is.

Is it a correct Copy of the Original in Chancery?
It is a correct Copy of the Original in Chancery.

The same was delivered in, and read as follows:


"Hoc Inquisitione facta fuit in nova sessionis domo burgi de Edin-
burgh virtute dispensationis penes locum et vacantiarum tempus ex
deliberatione dominorum consili et sessionis S. D. N. Regis conces-
sexto die mensis Maii anno Domini millesimo sexcentesimo octo-
gesimo quarto Coram dubius discretes viris Adamo Cunninghame et
Alexandro Hamiltonone duobus quatuor clavigeris ordinariis coram
dictis dominis consili et sessionis vicecomitibus in hac parte vice-
comitatus de Bervick per commissionem dicti S. D. N. Regis sub tes-
timonio ejus magni sigilli ex delibearione dictorum dominorum con-
sili et sessionis ad effectum subscription specialiter et legitime con-
stitut per hos honorabiles patrie viros subscriptos viz Dominum
Joannem Shaw de Greencok Dominum Patricium Scot de Ancrum
Dominum Guglielmum Bennet de Grubet Dominum Patricium Nisbet
de Dean Dominum Guglielmum Patersone clericum secreti consili
milites Joannem Edgar de Wedderlie Jacobum Hume de Gamilsheills
Joannem Skeen de Haliyarde Jacobum Currie nuper prefectum
burgi de Edinburgh Joannem Andersounse de Dowhill Magistrum
Guglielmum Riddel de Friershaw Walterum Riddel de Newhouse
Magistrum Jacobum Los de Mercherstone Joannem Hall de Oldc-
cambas et Jacobu Winrame scribam signeto regio Qui jurati dicunt
quod quondam Magister Georgius Home de Kinerghame avus Georgii
Hume nunc de Kinerghame obtit ultimo vestitus et saistas vt de
feodo ad fidem et pacem S. D. N. Regis in omnibus et singulis terris
allestq infra scriptis viis in totis et integris terris de Kinerghame
cum domibus edificiis hortis tofis cruftis partibus pendiclis et
pertinentiis quibuscumq eisdem juste spectantibus necnon totam et
integram dimidietam molendini granarii occidentalis de Kinerghame
voca vt lie Wester Milne de Kinerghame cum terris molendinariis
astrictis multuris sequelis et alius suis pertinentiis jacei intra baro-
niam de Buncell et Prestounre regalitatem ejusdem et infra vicecomi-
tatum de Bervick Et similiter in totis et integris terris de Redheugh
aliquando per Beatricem Hume postea per Joannem Broune in Red-
heugh occupa exinde ad octave partem baronie de Blacader cum

(40.)

domibus
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domibus edificiis hortis toftis croftis partibus pendiculis et omnibus suis pertinentiis jacei in baronia de Blacader et vicecomitatum de Berwick predict Ac etiam in totis et integris terris de Beedshill cum molendino earundem terris molendinaries multuris lie succed et sequelis ejusdem ac cum manerie loco domibus edificiis pomariis hortis et omnibus aliis suis ptibus pendiclis et pertinentiis jacei in dominio de Hume et infra vicecomitatum de Berwick supra script E t quod dictus Georgius Hume est legitimus et propinquior heres dicti quondam Magistri Georgii Hume sui av in terris molendinis aliis supra expressi cum pertinei Et quod est legitime etatis Et quod predicte terre de Kinnerghame et dimidium occidentalis molendini granarii ejusdem alias predicta valent nunc per annum summam ....... Et valuerunt per annum tempore pacis summam ....... Et quod dictae terre de Ridheugh extenderi et predicto nunc cleresi per annum summam ....... Et valuerunt per annum tempore pacis ....... Et quod predicte terre de Beedshill cum molendino et pertinente supra expressi nunc valent per annum summam ....... Et valuerunt per annum tempore pacis summam ....... Et quod predicte terre de Kinnerghame et dimidie occidentalis molendini granarii ejusdem heredibus et successoribus quond Alexantri Home de Houndwood in libera alba firma tenentur pro annua solutione vnius denarii suaalisa monete hujus regni Scotie in termino sui die festi Pentecostes super solo dictarum terrarum nomine alba firma si petatur tantam Et quod predicte terre de Ridheugh cum pertinentiis de Domino Joanne Hume de Blacader milite baronetto et suis successoribus immediate tenentur in libera alba firma pro annua solutione vnius denarii monete predicte in termino seu die festi Pentecostes super solo dictarum terrarum nomine albe firma si petatur tantum Et quod tota et integra terre de Beedshill cum molendino et pertinentiis earundem de nobili et potente comite Jacobo comite de Hume et suis successoribus immediate tenentur in libera alba firma pro annua solutione vnius denarii monete predict in die festi Pentecostes super solo dictarum terrarum nomine albe firma si petatur Necnon pro annua solutione loco hospitiali divi Pauli apud Edinburgum summam decem librarum monete predicte ad duo anni terminos consecutos vix Pentecostes et Sancti Martini in hyeme per equeslas portione tantum Et quod omnes et singule predicte terre alia supra recitata cum pertinentiis hunc existunt in manibus rexvorum superiorum supra nominat continuo a decessu dicti Magistri Georgii Hume de Kinnerghame qui obiit .... die mensis .... anno Domini millesimo secexcentesimo quinquagesimo nono per spatium viginti quinque annorum et .... mensium in defectu dicti Georgii Hume sui veri heredis jus suum hucusque minime consequentur In cujus rei testimonium sintibus [ex chirographo Gulielmi Hume servitori Magistri Alexandri Hume acrire signato regio script manu] Magistri Alexandri Hume notarii publicei et predictae curiae clerici subscripti sigilla dictorum clavigerorum vicecomitum in hac parte per dictam commissionem specialiter constitut ut supra unum cum brevisibus regis et sigilliis honorabilium virorum qui dictae inquisitioni intererant sunt inclusa die mensis et anno Domini quibus supra Sic subscribitor

Magister Alex' Hume Chr.”

Hac
( 75 )

"Haec est vera copia principalis retornatus super premissis in cancellaria S. D. N. Regis remanenti extract copia" et colla- per me Thomam Miller sub" Jacobi Dundas depois prahon" Jacobi S' Clair Erskine comitis de Rosslyn ejusd cancellaria directoris sub hac mea subscriptione (Sic sub)

Thomas Miller Sub."

George Home, Esq.

Have you also an Office Copy of an Instrument of Seisin in favour of George Home of Kimmergham, in the Lands of Greenlow, dated the 22d of May 1684?

I have.

Is that your Hand-writing?

It is.

It is a correct Copy of the Original?

It is.

The same was delivered in, and read as follows:

"General Register of Seisins, Book L. Folio 198.

"At Edinburgh the eleventh day of June the yeare of God 1684 and eighty-four yeares the sasine vnderwritten was presented be Master Alexander Hume wyter to the signet And is regrat in this fyftie book of the new generall register of sasines reversions and other writts appoynted to be regrat conforme to the act of parliament made theranent in June 1617 wherof the tenor follows. In Dei nomine Amen per hoc preseus publicum instrumentum cunctis pateat evidenter et sit notum. Quod anno Incarnationis dominice millesimo sexcentesimo octagesimo quarto mensis vero Maii die vigesimo secundo regni, S. D. N. Caroli secundi Dei gratia Magnae Britanniae Franciae et Hiberniae Regis fidei, defensoris anno trigesimo sexto in mei notarii publici testiumq, subscripsit presentia personaliter comparuit Joannes Scott in Fangirst tanquam actornatus et in nomine Georgii Hume de Kymmherghame habens suisq, in manibus tenens quandam cartam preceptum sasines subinsertum in se continei faci daet et concesi per dominum Patricium Hume de Polwart militem baronetum dicto Georgio Hume de Kymmherghame heredibus suis masculis et assignatis quibusculq, de totis et integris tribus mercatis terris arrabilis terrarum de Kembis alias Greenlaw Kembis per quodnam magistrum Ricardum Shorwood de Beitscheill et Mariotam Dudingstone ejus sponsam occupat cum domibus aedificis hortis pomaria partibus pendiculis et pertinei earundem ac cum communis solitis et consuetud in communis mora de Greenlaw Greenlawridge et in maresia vulgo lie moss de Greenlaw Kemb jacei in baronia de Greenlaw infra comitatum Marchie et vicecomitatum de Berwick Quasquidem terras alias, supradict quondam magister Georgius Hume de Kymmerghame avus dicti Georgii et quondam Isobell Hume ejus sponsa a quondam Joanne Shorwood nepote et herede dicti quondam magistri Ricardi Shorwood titulo pure emptionis sibi et heredibus masculis suis et assignatis acquisiverunt et in quibus dicti quondam magister Georgius Hume et Isobella Hume ejus sponsa obierunt ultimo vestiti prout de
de feodo ad fidem et pacem S. D. N. regis Quas etiam terras quondam Robertus Hume de Kymmerghame pater dilecti Georgii et quondam Katharina Hume ejus sponsa omnibus eorum vitae diebus quanquam nunquam in eis saeit aut vestiti occupaverunt et posside- runt ut in dicta carta preceptum sasine subinsertum in se continet latius continetur Quamquamidem cartam preceptum sasine subinser- tum in se continet prefatus Joannes Scott tanquam acturnatus et in nomine predict discreto et honesto viro Roberto Edington in Polwart Woodheads ballivo in hac parte specialiter constitut exhibuit et pre- sentauit eundem requiret ut dict sasine preceptum secundum tenorem ejusdem debite executioni demandaret Quamquamidem ballivus dicit cartam dicit sasine preceptum in se continet in manibus suis acceptit et mihi notario publico ad perlegend publicand et in vulgari sermonex exponend tradidit [Quod feci] Et cujus precepti tenor sequitur et est talis Insuper dilectis meis ac et vestrum cuilibet conjunctim et divisim ballivis meis in hac parte specialiter constitut salutem obis precipio et firmiter mando quatenus visis presentibus indilatatum sasianam hereditariam necnon possessionem corporalem actualis et realem totum et integratum prefaturam trium mercatarum terrarum terrarum arrabilium de Kembis alias Greenlaw Kembis cum domibus aedificiis hortis pomariis partibus pendiculis et pertinens earundem ac cum dicti communia visitas et consuetud in dict communis mora de Greenlaw Greenlaw rig et in dicti maresia vulgo lie moss de Greenlaw Kemb ut prefectur occupai et jacei prernominato Georgio Hume de Kymmerghame vel ejus certo actornato latorii presentium per terre et lapidis fundi earundem ut moris et traditionem secundum tenorem prescripte carte mae just habere faciatis tradatis et deliberatis sine dilatatione Et hoc nullo modo omittatis ad quod faciendum obis et vestrum cuilibet conjunctim et divisim ballivis meis in hac parte ante- dicti meam plenariam et irrevocabilem tenore presentium committt potestatem. In cujus rei testimonium huic presenti carte mae pre- ceptum sasine in se continet manu Patricii Christie in Polwart notarii publici et clericum curiarum meearum script manuoq mea subscrips sigillum meum est appensum apud Polwart house decimo sexto die mensis Maii anno domini millesimo sexcentesimo octagesimo quarto coram his testibus magistro Alexandro Brounfield scriba Edin- burghensi Patricio Allane me servitore et dicto Patricio Christie Sic subscribitur P. Hume — Alex’ Brounfield witness — Pat. Allane witness — Pat. Christie witness Post cujusquisdem precepti sasine preinserti perlecturam et publicationem prefatus Robertus Edington ballivus in hac parte antedict et virtute et vigore dicti precepti et suis officiis balli- vatus sibi in hac parte commissum statum sasianam hereditariam pariter et possessionem actualis realem et corporalem dicto Joannis Scott tan- quam actornato et in nomine dicto Georgii Hume de Kymmerghame totum et integratum predict trium mercatarum terrarum terrarum arrabilium de Kembis alias Greenlaw Kembis cum domibus aedificiis libertatibus communis et singulis earundem pertinens supra scripti jacei ut prefectur per terre et lapidis fundi dicit terrarum ut moris est in manibus dicit Joannis Scott tanquam acturnati et in nomine predict traditionem et deliberationem dict tradidit et deliberavit secundum formam et tenorem predict carte precepti sasine in eadem content in omnibus punctis Super quius omnibus et singulis premissis pref- fatus Jacobus Scott tanquam acturnatus et in nomine predict a me notario
notario publico subscribe hunc presens publicum instrumentum sibi fieri petiti unum seu plura Acta erant hec super solum et fundum dict terrarum horas inter decimam et undecimam ante meridiem aut eo circa sub anno die mensis et Regis regno quibus supra presentibus ibidem et Joanne et Patricio Allans et Donaldo M'thauchlane servitoriibus dicti domini Patricii Home et Roberto Trotter filio legittimo Gulielmi Trotter in Netherhall de Sisterpeth et quibusdam alia testibus ad premissa vocatis pariter rogatis et requisitis Sic subscribatur."

"Et ego vero Patricius Christie clericus Sci Andree diocesis notarius publicus authoritate regali et per Dominos concili admissus secundum tenorem acti parliamenti Quia premissis omnibus et singulis dum sic ut premittitur dicenterur agerentur et fierent unicum prenomnatis testibus presens personaliter interfui esq. ommia et singula premissa sic fieri vidi scivi et audivi ac in notam cepi Ideoq hoc presens publicum instrumentum manu mea fideliter scriptum exinde confeci et in hanc publici instrumenti formam redegi signoq. nomine et cognomine meis solitis et consuetis signavi et subscripsi In fidem robur et testimonium omnium et singulorum premisorum rogatus et requisitus Tandum bona causa triumphat P. C. N. P.—Robert Trotter witnes—Patrick Allan witnes—Donald McLauchlan witnes."

"That what is contained on the Eight preceding Pages of stamped Paper is faithfully copied from the Records in His Majesty's General Register House at Edinburgh is attested by me, one of the Keepers of these Records."

(Signed) WILL ROBERTSON."

Then Mr. Brougham was heard in support of his Tender of Craufurd's Peerage of Scotland, and referred to Erskine's Institutes, Page 725.

Mr. Attorney General was heard against the Admissibility of the Book in Evidence.

The Counsel for the Petitioner were asked, Whether they were aware of such Evidence having been received in the Case of a Scotch Peerage?

Mr. Brougham stated, that he was not aware of any Case, but rested his Argument upon its Admissibility on Questions arising in the Courts of Scotland.

The Counsel were informed, that this Book could not be received in Evidence.

Then Mr. Brougham stated, that to prove that George, who died in 1705, left a Son Robert, who on the 18th of April 1706 was served and retoured Heir in Special to George his Father, in Kimergham and other Lands, he should put in the Retour.

(40.)
Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) What have you there?
An Office Copy of a Retour of the Special Service of Robert Home of Kinnergham, as Heir of the deceased George Home of Kinnergham his Father, dated the 18th Day of April 1706.

Was that Copy written by you?
It was.

Was it also examined by you?
It was.

The same was delivered in, and read as follows:

"CHANCERY RECORD, BOOK LII. FOLIO 338.

Archibalde duce de Dowglas in seodo et hereditate pro annua solutione firmarii et devoriarum ex eis debi secundum antiqua jura et insofameata earund. Et quod predict terre de Betshail cum molendino earund terris molendinariis multuris lie Sucken et sequelas Et cum manerii loco domibus edificiis hortis pomariae et omnibus aliis pertinent earund tenentur de nobili et potente commite Carole comite de Home in libera alba firma et hereditate pro annua solutione denarii monete Scotiei ad festum Pentecostes nominate albe firmae si petatur tantum. Et solendo annuatim hospitio divini Pauli apud Edinburghum summan decem librar monete predict ad duos anni terminos festa viz. Pentecostes et Sth Martini in hyeme per equales portiones Et quod integre predict terre de Kinnerghame dimidietas molendini granarum occidentalis earund predict terre de Botshail cum molendino terris molendinariis multuris et pertinei valent nunc feudifirmarum firmas et albas firmas superorbis debi. Et tanti valuer e tempore pacis. Et quod predict terre de Kinnerghame dimidium occidentalis molendini granarum earund et terre de Betshail cum molendino terris molendinariis multuris et integris suis pertinentium nunc sunt sicuti fuerunt in manibus dicturam Archibald ducis de Douglass et Caroli comitii de Home earund superiorn rexive supra mentiona semper a decessu dict quo Georgii Home de Kinnerghame patris Roberti Home nunc de Kinnerghame qui obiit vigesimo septimo die mensis Septembris ut minus elaps. Et sic per spatium sex mensium et triginti dierum aut eo circa ratione non introitus in defectu dicth Roberti Home nunc de Kinnerghame veri heredis dicth quando Georgii Home sui patris suum jux hucusq. minime prossequei. In eis rei testimonium sigilla quorund eorum qui dict inquisitioni intererant faciendo cum appensione brevis super premissis directi jnibus sunt appensa Extract de libris auctorum curie vicemcomitat de Berwick per Jacobum Winram dicit curiae et deservionis clericum Sic sub. JA. WINRAM."

"Hec est vera copia principalis returnatus super premissis in cancellaria S. D. N. Regis remanei Extract copiis et collat per me Thomam Miller Sub' Jacobi Dandas dep' praehoni" Jacobi S' Clair Erskine comiti de Rosslyn ejusd cancellarie directoris sub hae mea subscriptione Sic sub. Thomas Miller Sub."

Then Mr. Brougham stated, that as Evidence of the Non-existence and of the Extinction of all the Male Descendants of George Home of Kinnergham, as well as of Thomas Home his immediate elder Brother, he should prove that Patrick First Earl of Marchmont was, upon the 25th of August 1710, served and retourned Heir Male of Robert of the last of Kinnergham; that the Witness was not able to speak to the Office Copy produced having been examined by him, and that, therefore, he produced it on the Ground, simply, of its being an Extract, made by the proper Officer, of a Record in Chancery.

The same was delivered in de bene esse. Then
Then Mr. Brougham stated, that he should now proceed to the Third Class of Collaterals; and should first put in an Entail executed by Alexander Home of North Berwick, which was contained in a Royal Charter, dated the 16th of October 1591, of his Estate of North Berwick, in favour of himself and the Heirs Male of his Body, whom failing, to John Home, the Fourth Son of Patrick Home of Redbraes, with other Remainers.

Then GEORGE HOME, Esquire, was further examined as follows:

**Mr. Brougham.** What have you there?

A Charter by King James the 6th to Alexander Home of North Berwick, and the Heirs Male of his Body, dated the 16th of October 1591.

Whence did you get it?

From the Charter Chest of Sir Hugh Dalrymple of North Berwick.

Where was the Charter Chest?

It was sent to Edinburgh to John and Francis Anderson, as I stated on a former Day.

Mr. Attorney General submitted, that the Custody was not sufficiently proved.

Mr. Brougham stated, that in the Borthwick Peerage Case, in 1812 and 1814, various Title Deeds were produced, with less Evidence of the Custody.

The Counsel were asked, Whether the Objection was taken, as otherwise their Lordships might have received them on the Understanding that the Counsel for the Crown were satisfied.

Mr. Brougham stated, that the Evidence he referred to did not appear to have been objected to.

It appearing, on Inspection, that the Great Seal of Scotland was appended to the Charter, Mr. Brougham submitted, that upon that Ground it was Evidence.

The same was delivered in, and read as follows:

"JACOBUS Dei gratia Rex Scotorum Omnibus probis hominibus tocius terre sue clericis et laicis salutem Sciatis nos post æram legitimam et perfectam etatem viginti quinque annorum completam dedisse concessisse et hac prætii carta nis confirmasse dilecto nis Adriandro Home de Northberuir et hereditibus masculis de corpore suo legitime procreandis Quibus deficiæ Joanni Home quarto filio legitimo Patricii Home de Reidbrayis et hereditibus masculis de corpore suo legitime procreand Quibus deficiæ Magno Alexandro Home fratric germano dicit Joannis et hereditibus masculis de corpore suo legitime procreánd Quibus deficiæ Gavino Home etiam fratric germano dicit Joannis"
Joannis et heredibus masculis de corpore suo legitime procreandis Quibus deficiēn Daudi Home etiam fratri germano dicit Joannis et heredibus masculis de corpore suo legitime procreand Quibus deficiēn Georgio Home etiam fratri germano dicit Joannis et heredibus masculis de corpore suo legitime procreand Quibus deficiēn Jacobo Home etiam fratri germano dicit Joannis et heredibus masculis de corpore suo legitime procreand Quibus deficiēn Patricii Home fiiio et heredi appareni dicit Patricii Home de Reidbrayis et heredibus masculis de corpore suo legitime procreand Quibus omnibus deficiēn prefato Alexandro Home de Northberuik ac heredibus suis masculis cognomen et arma de Home gereñ et suis assignatis quibuscupçq. Omnes et singulas terras et baroniam de Northberuik terras aliaq. rex subspecificā contineñ viñ Totas et integras terras dūicales de Northberuik cum maneri domibus edificías hortis pomerius colubario cuniculariis lie linkis partibus pendiculis piscarīis et decimis piscium integrī portus de Northberuik Terras vocat lie merlendae seu lie ferme aikeris cum suis pertineñ Totam et integram occidentalem partem ville de Northberuik vocat lie Nühait jaceñ ex occidentali latere torrentis vocat lie Clartie burne cum omnibus et singulis terris tenementis domibus edificiis toftis croftis lie outsettis horreis aliaq. pertineñ earundem Omnes et singulas terras de Heuche Northberuiklaw pratum vocat lie Law medo molendinû de Dinkeith cum suis croftis et pertineñ. Quatuor alias croftas terrarû cum suis pertineñ jaceñ ex boreali parte burgi viñ Northberuik Totas et integras duas terras husbandias in Benestouñ cum suis pertineñ Totum et integrum molendinû granariû vocat lie Over Mylne de Lynton super aqua de Tyne cum domibus edificiis hortis toftis croftis multuris sequelis et suis pertineñ omnia jaceñ infra vicecomitatum nûm de Edinburû et constabulario de Hadintoun. Totas et integras terras de Grange et Breich cum mansione domibus edificiis hortis toftis croftis earundem et suis pertineñ jaceñ in parochia de Calder et vicecomitatu de Edinburû antedict Totas et integras terras de Montryve Terras de Aitherney et terras de Grange cum omnibus suis pertineñ jaceñ infra vicecomitatun nûm de Fyif cum domibus edificiis fortaliçiiis maneriis hortis pomerius molendinis multuris toftis croftis lie outsettis silius piscarīis partibus pendiculis annexis cōnexīs tenæn tenæn libere teneñ seruiīs feuðīfīrme firmis et deuorīs ōūm et singularum predict terrarû molendinorum aliorumq. superspecificā particulariter et omnibus suis pertineñi extendēñ in integro per determinationem vnus condigne inquisitionis ad capellan nûm retornatam ad viginti octo libratas et decem solidatas terrarû antiqui extentus vnacum aduvocatione donatione et jure patronatus eccie parochialis de Northberuik rectorie et vicarie eiusdem ad dici baroniam vnit et annexa. Quœquidem terre et baronia de Northberuik Terras molendina piscarīis aliaq, particulariter superspecificai contineñ cum maneri domibus edificiis fortaliçii molendinis multuris hortis pomeriaris cōnexīs terras teruis pendiculis annexis cōnexīs lie outsettis toftis croftis tenæn tenæn libere teneñ seruiīs feuðīfīrme firmis earundem vnacum dicta aduvocatione donatione et jure patronatus dicte eccie parochialis de Northberuik rectorie et vicarie eiusdem ac omnibus suis pertineñi vñ supra jaceñ prefato Alexandro perpriors hereditarie pertinuerunt et per ipsum in manibus nûris pure et simpliciter per fūstīm et basulum personaliter apud
Halierudhous resigneate fuerunt. Cum omnibus jure titulo interesse jurisclamoe proprietate et possessione que seu quas dictus Alexander habuit habet seu quousmodo in et ad easdem in futurum habere vel clamare poterit pro hac nona infozatione earundem prefato Alexandro et hereditibus suis masculis et assignatis rex supraspecificat in debita et competenti forma tradenda et deliberanda. Insuper nos inde post dictam nām legitimam et perfectam etatem viginti quīnq. annorum vt premittitur completem pro bono fideli et gratuito seruitio nobis per dici Alexanderum. Impenso aliaq. bonis considerationibus nos mouētis ratificamus approbamus et confirmamus ac pro nobis et successoribus nās tenere justa carte nē ratificamus approbamus et pro perpetuo confirmamus cartam et infozatīum per nos sub nōs magno sigillo de data vigesimo die mensis Martii anno dīxī milesīsimo quīngentēsimō octuagesīimo septīmo prefato Alexandro et hereditibus suis masculis et assignatis respectu et successīue supraspecifical deossi de omnibus et singulis terris et baronìa de Northberui antedici Terras aliaq. suprāmentional particulariter continēi vniōnem et eructionem earundem in vnām integrām et liberām baroniam et omnes alias libertates pruīlegia prōusiones et immunitates in dicto infozatīum content cum procuratūrio et resignacione in eodem mentionali. Super quibus idem procedit cum sasina et omnibus inde sequentis. In omnibus et singulis punctis articulis clausulis conditionibus et circumstānciis quibuscumque, in eisdem re supraspecifica content secundum formas et tenores earundem. Ac volumus et concedimus ac pro nobis et successoribus nās pro perpetuo decernimus et ordinamus quē hēc fīns nē confirmatio prefati infozamnti aliōrum, antedici. Tantū erit valoris roboris obsercatio et effectus memorato Alexanndro hereditibus suis masculis et assignatis rex supraspecifica. Acsi eadem totiō, eorundem tenores in hac justa carte et nōs nās infozatione verbatim erant expressī et contenti non obstāba quibuscumque, objectionibus defectibus et impedimentis que contra eadem quoismodo opponi poterint Penes que nos pro nobis et successoribus nās tum dicto Alexandro hereditibus suis masculis et assignatis prescript pro perpetuo per justa carte nē tenorem dispensamus. Ac vīterius nos inde post dicti nām legitimam et perfectam etatem viginti quīnq. annorum vt dictum est completem pro causis antedici. De novo damus concedimus et disponimus prefato Alexandro et hereditibus suis masculis et assignatis respectu et successīue prescript. Omnes et singulas predict terras et baroniam de Northberui vīz Omnes et singulas terras dīnicales de Northberui antedici cum maneriē domibus edificiōs hortis pomeria colubramo cuniculāris lie hinkis partibus pendiculis piscarīs et decimis piasm integri portus de Northberui dict terris vocet lie fērmlandius seu lie fīrme aikeris cum omnibus suis pertinei. Totā et integrum dicti occidentalem partem ville de Northberui predict vocet lie Nigsaia jacei ex occidentali latere dīc torrentis vocat lie Clartieburne cum omnibus et singulas domibus edificiōs tenementis lie outsettis caudis hortis horres aliaq. pertinei earundem Omnes et singulas predict terras de Heuche Northberuiālaw pratum vocat lie Law medo preōnisa molendina de Kinkeith cum meditūris tōfis croftis eorundem. Et alia quatuor croftas terrarum jacei ex boreali parte dīc burgi nī de Northberui Totas et integras predict duas terras husbandias in Bonestoun cum suis pertinei Totam et integrum dicti molendini granorum vocat lie Ouer Mylne de Lymetoun super aqua de Tyse cum
cum domibus edificiis hortis toftis croftis multariss sequelis earundem et suis pertineñ Totas et integras preñiñatas terras de Grange de Breiche cum mansione domibus edificiis hortis toftis croftis earundem et suis pertineñ Totas et integras prediciñ terras de Moðhrvice diçt terras de Athern et preñatas terras de Grange cum omnibus suis pertineñ cum omnibus et singulis domibus edificiis fortaliciis maneriebus hortis pomariñis molendinis multariss toftis croftis lie outsettis siluis piscaris partibus pendiculis annexis cóñexis teneñ teneñ feuñifírne firmis et deuoriis õum et singularum preñiñatarum terrarum molendinorum õum, particulariter prescript et omnibus suis pertineñ vt preñmittitur jaceñ vnacum dicñ aduocatione donatione et jure patronatus dicñ eccëie parochialis de Northberuiñ rectorie et vicarie eiusdem ad dicñ baroniam vt preñmittitur vnñ et annexañ. Ac totum jus titulum interesse jurisclameum proprietatem et possessionem tam petitoria quam possessoria que seu quas nos nñi predicessori seu successores habuimus habemus seu quouiamodo habere vel clamare poterimus ad easdem firma profíca et deuoria earundem de quibus cuñq, annia et terminis preteritis seu futurus ratione nonintroitùs eschaete forisfacture recognitionis disclamationis bastardie purpres-ture reuocationis seu reductionis informentorum retornautüñ seu sasinorum earundem alienationis totius vel maioris partis seu ob quamcuñq ahum causam seu occasionem preteritam renuciando eiusdem pro nobis et successoribus nñiñ prefato Alexandre hereditibus suis masculis et asignatis prescript per ññiñi carte nñiñ tenorum imperpetüñ Cum pacto de non petendo ac cum supplemento õum aliiñiñ defectuñ tam non nóñiñ quum nóñiñ quos nos tanñ pro expressi in hac ññiñi carta nñiñ haberi volumus Et similiter ex certa scientia et proprio motu de nouo ereximus creauimus vnuimus et incorporauimus Neçnon, tenore ññiñi carta nñiñ creauimus vnuimus erigimus et incorporauimus Omnes et singulas preñiñatas terras molendinis aiañq, particulariter, supramentionañ cum domibus edificiis fortaliciis maneriebus hortis pomariñis molendinis multariss toftis croftis lie outsettis siluis piscaris partibus pendiculis annexis cóñexis teneñ teneñ feuñifírne firmis earundem et omnibus suis pertineñ vnacum dicñ aduocatione donatione et jure patronatus prediciñ eccëie parochialis de Northberuiñ rectorie et vicarie eiusdem antediciñ. In vnacum integrum et liberam, baroniam in futurum dicñ baroniam de Northberuiñ nñiñcupand ordinam prediciñ manerium de Northberuiñ vocañ lie Nework principale esse messuageiñ dicñ baronie. Ac etiam volumus et concedimus ac pro nobis et successoribus nñiñ pro perpetuo decernimus et ordinamus q vnñis sasina níç prefato Alexandre et in futurum suis hereditibus masculis et asignatis rex et successuñ prescript de prefatis terris et baronia apud dicñ principali messuagiiñ et manerium de Northberuiñ danda stabit et sufficiens erit sasina pro omnibus et singulis terris molendinis piscaris aiañq, rex supraspecificañ cum aduocatione donatione et jure patronatus dicñ eccëie parochialis de Northberuiñ rectorie et vicarie eiusdem et omnibus suis pertineñ vt preñmittitur vnñ et annexañ. Non obstañ q eedem non contigue et simul jaceñ sed in diuñeriñ vicetornitabilis Teneñ et habeñ omnes et singulas preñiñatas terras et baroniam de Northberuiñ preñiñatas terras molendinis piscaris aiañq, particulariter supramentionañ cñoprehendeñ cum omnibus et singulis domibus edificiis fortaliciis maneriebus hortis pomariñis molendinis multariss toftis croftis lie outsettis siluis piscaris partibus pendiculis
pendiculis annexis cōnexi teneñi tēnañi feudīfīrme firmīs et deuoriis ēgium et singularum prēnōtārām terrarum molendinōră aliorum, particularītė prescripī omnibusq, suis pertineñi vīt premittitūr jaceñi vnacum dīc advocatio nec donatio et jure patronus dīcīt ecclesī parochialis de Northberuik rectorie et vicarī eiusdem vīt dīcīt est vnīt et annexa memora Alexander Home, heredībus suis masculīs et assignātīs rex et successiue supraspecificā de nobīs et successori-bus nīris in feodo hereditate et libera baronia imperpetū prī per omnes rectas metas suas antiquas et diūissas prōt jaceñi ēn longitudinalē et latitudine in edificīs boscīs planis moris nīrēsī vīs semītīs aquis stagnīs riūolis prātīs pascui us et pasturīs molendīnīs multīrīs et eorum sequēlis auxcapiçãoibus venationibus pescationibus petariis turbarīs carbonibus carbonāris cuniculae curiāris columbariis fabrībus brāsīs brueriis et genēsis sylvis nemōri-bus et virgultis lignis tignīs lapicidīs lapide et calce Curīs curīs et eorum exitūs hæredezīs bludewītibus et mulierum marchetis cum furca fossa sok sak thole theme wrak wair et vennysoun infrang-theiff outfrangtheiff pit et gallous Cum cómuni pastura libre in intrauē et exitū Ac cum omnibus alīs et singulis libertātibus cómoditātibus proficīs et asiamenstīs ac justīs suis pertinēnī quibuscunque, tam non nōtātīs quam nōtātīs tam substīs terra quam supra terrarum procul et prope ad predict terras et baronia cum pertinēnī spectāntī suō justē spectare valēñ quomodolibet in futūrum libere quīte plenarie intégrē honorificē bene et in pace sine aliquo impedimento renovatio contradictione impedimento aut obstaculo quocunque. Redendo índē ēnuatīm prēfātus Alexander heredes sui masculīs et assignātīs rex et successiue supraspecificātī nobīs et successori-bus nīris sūnām centum quinquaginta quatuor librarī sex solidorum et octo denariorum monēte nīi regni ad duo anīn terminos consuetūs festa vīz penthe-costes et Sancti M’tīni in hieme per equales portiones nōe albeferme tantum Prouiso q intiuitu reservationis vsufructus suō vitalis red-ditus predīct firmarum et deuoriae dīe Margarete Home Prioriisse de Northberuik in anteriore infeoamentō nōo supraspecificā reseruā dīc Alexander et sui antedīc nullatenus astringētur in solutionem earundem firmarum nobīs et successorīs nīris durante dicte Prioriisse vita Ac etiam q post eius decensum persone sequentēs vīz magēr Adamus Home Rector de Polwart et Alexander Home janitor castrī nīi de Edinburh dūrān ipsum vītīs prompte et grateranter pensouerunt de eorum ēnuis pensionibus ipsis rex dīcīt predict firmīs et deuoriis assignātīs Et q nos nec successores nī nullo modo dīcīt ēnuam firmam et deuoriae exigemus seu exigent durañi dīc Prioriisse vita et post suī decensum ēnuatīm defalcabuntur dīcto Alexander et suī prescripĭ in solutionem dīc firmāri et deuoriae in hac īntī infobadata-tione contentī dīcīt anūs pensionīs dīc firmariōnārī dūrān ipsum vītīs tantum Secundum formā et tenorem dīcīt prioris infeoamentī nīi et reservationem earundem firmarum in eodem contentī. In cuius rei testimoīníi huic īntī carte nē magnū sigillum nīnī apōnī prē-cepimus Testibus predicietis nīis consanguiñēs et consiliāris Joanē dīo Hamlytoun &c. cōmendentario de Abirbrothok Georgio comite marisci dīo Key &c. regni nīi marisci dīleictis nīīs familiārīs consiliāris Joanē dīo Thirestane &c. cancellario ac secretario nīo Waltero cōmendentario de Blantyre nīi secretī sigilli custode Alexander Hay de Ester Kennat aforum rotulōrēgī ac consiliī clerece dīo
Then Mr. Brougham stated, that he should next prove that John, afterwards Sir John Home, of North Berwick, succeeded his Uncle by virtue of the above Entail, by putting in a Royal Precept under the Great Seal of Scotland, dated the 7th of June 1609, to which a Portion of the Great Seal was still appended.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Attorney General.) Where did you get this? From the same Custody as the last. George Home, Esq.

The same was delivered in, and read as follows:

"JACOBUS Dei gratia Magne Britannie Francie et Hybernie rex fideiæq, defensor vicecomiti et balluii suis de Edinburghe infra constabulariam de Hadingtoun necnon diletis nris . . . . . . . . . . et eorum cuilibet conftitum et diuisim vicecomitibus nris de Edinburghe infra constabulariam de Hadingtoun in hac parte saltem Quia considerantes quod terre et baronia de Northberwick comprehendea terras alias, particulariter subitus specificata Cum aduocatione donacione et jure patronatus ecclesie parochialis de Northberwick rectorie et vicarie eiusdem terre temporales abbacie nri de Northberwick olim existente ab acto annexationis terrarum eccicarum corone nri excepte Et in vnam liberam baroniam erecte ac per nos quondam Alexandro Home de Northberwick et heredibus suis masculis et tallie in infeoamento desuper confero specificatis hereditarie dispositae fuerunt Et quod diletus nri dixis Johannes Home nuc de Northberwick miles heres provisionis et successor dicto quondam Alexandro in predictis terris et baronia de Northberwick eandem integram baroniam cum jure patronatus antedicte ecclesie In manibus nris resignavit pro nro novo hereditario infeoamento prefato dixo Johannis de eisdem terris et baronia cum decims garbalibus fructibus redditibus et emolumentis dicti rectorie et vicarie dando et conficiendo ad eandem baroniam viuendo et incorporando Cum eadem hereditarie et inseparabili remanend Ad hunc effectum vt minister cure apud dictam ecclesiam in futurum seruii de stipendio et sustentatione subtus specificato certus sit Et vt nos nri, successores nominationem et presentationem dictorum ministrorum habeamus prout dicto resignatio et diissio proporta Ac etiam intelligentes quod per actum parlementi nri apud Edinburghe menso Junio anno dii millesimo sexcentesimo nono tenti per nos et status eiusdem parlementi compertum est quod dicta resignatio pro ingenti beneficiicio dicte ecclesie et provisionis eiusdem facta est adeo dicti infeoamento dicto dixo Johannis sub nro magni sigillo in debita forma confici et concedi statutum prout in dicto actu plenus continetur Igitur ac pro bono fidelis et gratuito seruiito nobis per dictum dixo Johannem prestito et im-

(40.)

penso
penso Ac pro diuersis aliis bonis respectibus et considerationibus nos
moventibus Cum animamento et consenso predilecti nifi consiliaii
magi Johannis Prestom de Pennycuke nifi collectiaii glialis ac thesauro-
rariii marum novarum augmentationii et diuorum cimissionariumorum
huius nifi regni dedimus concessimus et disponimus prefato dio Jo-
Hanni Home et heredibus suis masculis de corpore suo legitime pro-
creatis seu procreandis Quibus deficientibus magro Alexandro Home
 eius fratri germano et heredibus masculis de corpore suo legitime pro-
creatis seu procreandis Quibus deficientibus Gavino Home etiam fra-
tri germano dicti dio Johanni et heredibus masculis de corpore suo
legitime procreatis seu procreandis Quibus deficientibus Alexandro
Home filio legitimo quondam Daudis Home de Rollandstown etiam
fratris germani dicti dio Johannes et heredibus masculis de corpore suo
legitime procreandis Quibus deficientibus Georgio Home etiam fra-
tri germano dicti dio Johannes et heredibus masculis de corpore suo
legitime procreandis Quibus deficientibus domino Patrickio Home de
Folwar mastiti etiam fratris germano dicti dio Johannes et heredibus
masculis de corpore suo legitime procreatis seu procreandis Quibus
omnibus deficientibus prefato dio Johanni Home de Northberwick
masti et heredibus suis masculis cognomen et arma Home gereii et
orum assignatis quibuscunq hereditarie Omnes et singulas terras et
baronias de Northberwick comprehendi terras aitii, reiulii substanti-
specificatae vs totas et integras terras dominicales de Northberwick cum
maseria domibus edificiis hortis pomeriiis colombario lie lyncis par-
tibus pendiculis piscariis et decimis piscium integri pertus de North-
berwick terras vocat lie Fernelandis seu Ferme aikers cum suis perti-
neii Totam et integram occidentalem partem ville de North-
berwick suncupat lie Nungait jaceini ex occidentali literé torrentis
vocat lie Clariekburne cum omnibus et singulis terris tenementii
domibus edificiis tofis croftis lie oustetl accord per alia, pertinentiaii
eiuidom omnes et singulas terras de Heuch Northberwick iaw, prae-
tum suncupat lie Lawmetsow molendina de Kunkeith cum suis croftis
et pertinentiaii alias quatuor croftas terre cum suis pertineii jaceini ex
australi parte burgi nii de Northberwick Totas et integras duas terras
husbandias in Benestoun cum suis pertinentii Totam et integrum mo-
lendini gramarii vocat lie Overmyrne de Lintoun super aqua de Tyne
cum domibus edificiis hortis tofis croftis multuras sequelii et perti-
neii eiuidom omnes jaceini infra vicecomitatum nii de Edinburgh et
constabulariia de Hadingtoun Totas et integras terras de Orange de
Breich cum mansione dominus edificiis hortis tofis croftis earundem
et suis pertineii jaceini in parochia de Calder et infra dictam vice-
comitatum nii de Edinburgh Totas et integras terras de Montrive
terras de Atherny et terras de Orange cum singulis suis pertineii
jaceiii infra vicecomitatum nii de Fyiff cum domibus edificiis fortala-
lis manerius hortis pomeriiis molendinis tofis croftis lie oustetl situis piscariis partibus pendiculis annexis connexiss
tenentibus tenandis libere teneri servitutis feudifirme firmis et deuo-
ris omnes et singularum terrarum molendinorum aliorum, particul-
lariter suprapectificat et singulis suis pertineii extendendi in integro
per determinationem comdigne inquisitionis ad cancellarium nii re-
ternate ad viginti octo libratae et decem solidatas terrarum antiqui
extentus Acetiam dedimus concessimus et disponimus prefato dio
Johanni Home et heredibus suis masculis et assignatis supra specifica-
catis
catis hereditarie omnes et singulas decimas garbalibus aliaeq, decimas fructus redditus proventus emolumenta et denoris quasunque ad rectoria et vicaria dicte ecclesie parochialis et parochie de Northberwick pertineeq et spectaeq. Ac vnumium annexauimus et incorporauimus omnes et singulas dictas decimas garbalibus aliaeqque decimas fructus redditus proventus emolumenta et denoris dicte rectoria et vicaria In et ad predictas terras et baroniam de Northberwick cum eisdem inseparabiliter omni tempore futuro remanser Quequidem omnes et singule terre et baronia de Northberwick comprehendi villam terras molendina pisearia aliq, rexiue supramentionata cum aduocatione donatione et jure patronatus dicte ecclesie parochialis de Northberwick rectoria et vicaria eisdem Ad dictum dum Johannem Home perpries hereditarie (vt prefertur) pertinuerit Et dicte terre et baronia de Northberwick per ipsum resonata fuerunt Et dicta aduocatio donatio et jus patronatus dicte ecclesie parochialis de Northberwick per ipsum cum consenso sui rectoris per eorum procurators literasq, patentes In manibus nrisi tangui in manibus sui immediatior superioris earundem apud Grenewicche pure et simpliciter per fustum et baculum (vt moris est) resonata fuit vnaecum omnibus jure titulo interesse et juriscahens que seu quas dictus dominus Johannes heredes sui aut assignati haberunt habent seu quoniamodo in et ad eadem in futurum haberet vel clamare poterint pro nriso novo hereditario infeoimento prefato dito Johannii et heredibus suis masculis et assignatis supramentionatis et predictiss terris et baronia. Cum omnibus et singulis dicte decimas garbalibus aliaeq, decimas fructibus proventibus emolumentis et denoris rectorie et vicarie ecclesie parochialis et parochie supraspecificate modo supramentionato danse et conosciendo Et ad hunc effectum vt nos nrisi, successores nominacionem et presentaonetem ministrori cui apud dictam ecclesiam de Northberwick servisse haberamus pro meliore plantationie eiisodem cum personis aptis et idoneis ad seruandum curam apud eandem Et vt dicti ministri de sufficiendi et rationabili stipendio in dicto infeoimiento content pro eorum sustentatione certa prouideantur Sicuti reseruauimus nobis nrisi, successoribus nominacionem et ponationem dictorum ministorum apud eandem ecclesiam omni tempore affuturo Insuper pro causis antedictis cum consenso supraspecificato secundum tenorem acti nrisi parlamenti supramentionati dissoluimis insulam fie neque vocaet Langbeolan prope Northberwick que perpries ad dictam abbatiam de Northberwick pertinuit ab acto annexationis terrarum ecclicerum coronae nrisi supramentionato ac ab omnibus alius actis et annexationibus quibuscurq. Et dedimus concessimus et disponuimus prefato dito Johannii Home et heredibus suis masculis et assignatis suprascriptis totam et integrum dictam Insulam de Langbeolan cum suis pertineeq cum advocacione donatione et jure patronatus capellariarum seu alteragiorum nuncupati Ladie altar Ruid altar et Sanct Sebastianis altar ex antiquo intra dictam ecclesiam parochiastem de Northbernik fundal cum potestate prefato dito Johannii et suis antedictis iuncti ad eadem personas aptas quotas eadem vacare contingent. Et declaramus eadem altaria libera esse de solutione omnium tertiarum seu aliarum impositione qui permanent in futuro desuper imponendae Neceon cum consenso antedicti dedimus concessimus et disponuimus prefato dito Johannii Home et heredibus suis masculis antedictis ilium sepulture locum fundal per dictum
dictum quondam Alexandrum Home et dictum dīm Johannem in orientali fine dicte ecclesie de Northberwick ad sepeliendum ipsoe eorumq. posteritates in futurum. Ac demum cum consensu ante-
dicto pro causis supraspecificatis de nouo vniiumus ereximus annex-
auimus et incorporauimus omnes et singulas villas terras molendina
piscarias decimas insulas aliasq. rexiue supr amentionata viq. Totas et
integras dictas terras diçales de Northberwick cum manerie domibus
edificios hortis pomariis columbario lie Lynkis partibus pendiculis
piscariis et decimis piscium portus de Northberwick dictas
terras vocat lie Fer melandis seu Ferme aikeris cum suis pertineñe
Totam et integram dictam orientalem partem dicte ville de North-
berwick nuncupat lie Nūgaiæ jaceñi ex orientali latere torrentis vocat
lie Clartie burne cum omnibus et singulis terris tenementiis domibus
edificios tofis croftis lie outsettis horreis aliisq. pertineñe ejusdem
omnes et singulas dictas terras de Heuch Northberwicklaw pratum
nuncupat lie Lawnedow molendina de Kineith cum suis croftis et
pertinentiis dictas alias quatuor croftas terre cum suis pertineñe jaceñi
ex australi parte dicti burgi nri de Northberwick Totam et integras
dictas duas terras husbandias in Benestoun cum suis pertineñe Totum
et integrum molendini granarium vocat lie Overmyrne de Lintoun
super dicta aqua de Tyne cum domibus edificios hortis tofis croftis
multiris sequelis et pertinentiis ejusdem Totam et integras dictas
terras de Grange de Breich cum mansione domibus edificios hortis
tofis croftis earund et suis pertineñe Totas et integras dictas terras
de Monthryve dictas terras de Atherny et dictas terras de Grange
cum singulis suis pertineñe vt prefertur jaceñi cum domibus edificios
fortaliciis maneriibus hortis pomariis molendinis multiris tofis
Croftis lie outsettis silvis piscaris partibus pendiculis annexis con-
nexis tenentibus tenandriis libereteneñi seruituis feudiñffe firmis et
deuroris omnii et singularum terrarum molendinorui aliorumq. parti-
culariter supraspecificat et singulis suis pertineñe cum omnibus et
singulis decmis garbalibus fructibus redditiis proventibus emolu-
mentis et deuorii rectorie et vicarie dicte ecclesie parochialis et
parochie de Northberwick ad predictas terras et baroniam de North-
berwick vnifi et incorporai Neconon tomat et integram dictam insu-
lam vocañ Langbeland cum pertineñe cum aduocatione donatione et
jure patronatus dicñ capellaniarí seu altaragiorum nuncupat Ladie
altar Ruid altar et Sanct Sebastianis altar vnacum dicto sepulture
loco fundañ per dictum quondam Alexandrum Home et dictum dīm
Johannem Home in orientali fine dicte ecclesie de Northberwick
cum singulis suis pertineñe vt prefertur jaceñi In vnami integram et
liberam baroniam omni tempore affuturo baroniam de Northberwick
nuncupandam ordinañ maneriæ de Northberwick vocañ lie New-
work principale messuagem dictæ baronie fore: Et volumus et
concedimus ac pro nobis et successoribus nris decernimus et ordi-
namus Quod vnica saasia nunc per dictum dīm Johannem de
dictis terris et baronia. Et omni tempore affuturo per heredes
suos masculos et assignatos antedictos apud dictum principæi mès-
suagem et maneriam de Northberwick cipienda stabit sufficiensq,
erit pro dictis integris terris et baronia comprehendeñi villas terras
molendina piscarias decimas insulas aliq. rexiue et particulariter
supraspecificata non obstañ quod discontigue et in diuersis vicecomi-
tatibus jaceñi prout in dicta carta nra desuper confecta latius con-
tinetur
tinetur Vobis precipimus et mandamus qūns prefato dūò Johanni Home vel suo certo actorniato latori ṣutium sasim omnīū et singu- larum dictarum terrarum et baronie de Northberwick comprehendeī villas terras molendina piscarias decimas aliaq, rexiue supramentiona viz. Totas et integras dictas terras ḍīcales de Northberuiik cum manerie domibus edificiis hortis pomarix columbario lie lynkis partibus pendiculis piscaris et decimis piscium integri portus de North- berwick dictas terras vocaf lie Fermelandis seu Ferme aikeris cum suis pertineī Totam et integram dictam occidentalem partem dicte ville de Northberwick nuncupaft lie Nungait jaceī ex occidentali latere torrentis vocaf lie Clartie burne cum omnibus et singulis terris tenementis domibus edificiis toftis croftis lie outsettis horreis aliaq, pertinentiis eiusdem omnes et singulas dictas terras de Heuch Northberwicklaw pratum nuncupaft lie Lawmedow molendina de Kinkeith cum suis croftis et pertinentiis dictas alias quatuor croftas terre cum suis pertineī jaceī ex australi latere dicti burgi nīī de Northberuiik Totas et integras dictas duas terras husbandias in Benes- toum cum suis pertineī Totum et integrum dictum molendinī gra- narium vocaft lie Overymyne de Lintoun super dicta aqua de Tyne cum domibus edificiis hortis toftis croftis multuris sequelas pertinentiis eiusdem Totas et integras dictas terras de Grange de Breich cum mansione domibus edificiis hortis toftis croftis earundem et suis pertineī Totas et integras dictas terras de Monthryve dictas terras de Achnery et dictas terras de Grange cum singulis suis pertineī vt prefertur jaceī Cum domibus edificiis fortaliciis maneriebus hortis pomariis molendinis multuris toftis croftis lie outsettis silvis piscaris partibus pendiculis annexia connexis tenentibus tenandriis libere- teneī seruiiciis feudisirme firmis et deuoriis omnīū et singularum terrarum molendinorum aliorumq, particulariter supraspecificat et singulis suis pertineī cum omnibus et singulis decimis garbalibus aliaq, decimis fructibus redditibus proventibus emolumentis et deuoriis rectorie et vicarie dicte ecclesie parochialis et parochie de Northberwick ad predictas terras et baroniam de Northberwick vnīī et incorporaft Neonon totam et integram insulam vocaft Langbeland cum suis pertineī cum dicta aduocatione donatione et jure patronatus dicti capellaniarum seu altarıorium nūcupaft Ladie altar Ruíd altar et Sanctsebastianis altar vnacum dicto se- pulture loco fundaft per dictum quandam Alexandrum Home et dictum dūm Johannem Home in orientali fine dicte ecclesie dicte ecclesie de Northberwick cum singulis suis pertineī vt prefertur jaceī secundum formam et tenorem antedicte carte nē quam de nobis inde habet (et vnionis prescript) juste haberī faciatis Et sine dilatione Et hoc nullo modo omittatis Ad quod faciendum vobis et vīm cuilibet conūcīm et diiuisim vicecomitibus nīī de Edinbūrgh infra constabu- larium de Hadington in hac parte cōnnittimus ṭatam Datum sub testimonio nūī magni sigilli apud Grenewiche septimo die mensis Junīī anno dīī millesimo sexcentesimo nonō Et regnorum nōrorum annis septimo et quadragesimo secundo."”

Then Mr. Brougham stated, that he should next produce a Con-
tract, dated in July 1683, for alienating North Berwick, by Sir John
Home, with the express Advice and Consent of George and Patrick
his Sons, and of Alexander Home of Rowanston, his Nephew.

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Then
Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) What have you there? An Office Copy of a Contract between Sir John Home of North Berwick, with Consent of Sir George Home, his eldest Son, &c., of the one Part, and William Dick on the other Part.

Is it an Extract from the Books of Session? Yes, this is a principal Copy, signed by the Clerk.

Cross-examined by Mr. Attorney General.

That appears to have been taken many Years back? Yes.

Mr. Attorney General objected to the Admissibility of this Document, there being no Proof of the Hand-writing of the Lord Clerk Register, by whom it purported to have been signed.

Mr. Brougham submitted, that every thing which it bore upon the Face of it was to be taken for granted at this Distance of Time.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) Where did you get this Office Copy from? From the Charter Chest of Sir Hugh Dalrymple of North Berwick.

The same Charter Chest in which you found the original Charter just produced? Yes.

The same was received de bene esse.

Then Mr. Brougham stated, that to prove that Gavin Home, the Second Son of Patrick Home, the Fourth in the Pedigree of Polwatt, left only Two Daughters, Anne and Helen, he should put in a Renunciation and Discharge, dated the 10th of August 1665.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) What have you there? An Office Copy of a Discharge and Renunciation by Anna Aikinhead, Daughter lawful of Anna Home, to Sir Patrick Home of Polwatt, dated the 10th of August 1665, and an Office Copy of a Discharge and Renunciation by John Acheson, Writer in Edinburgh, to Sir Patrick Home of Polwatt, of the same Date.

Where did you get those? From the Register Office.

From what Register Office? From the General Register Office.

Are
Are they made by yourself?
No, not by me, but by one of the Register Keepers.
They appear to be signed by Alexander Robertson?
Yes, he was Register Keeper at the Time.

The same were received de bene esse.

Then Mr. Wetherell stated, that he should next put in a Grant, or Confirmation of a prior Grant, of a large Estate in the Counties of Fermanah and Mayo in Ireland, and in particular the Manor of Tully or Tullagh, obtained by Sir George Home, the eldest Son of Sir John Home of North Berwick, from Charles the First.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Wetherell.) Have you an Office Copy of a Grant from King Charles the First to Sir George Home?
I have.
Did you copy that yourself?
I did.
You compared it with the Original?
I did.

The same was delivered in.

Mr. Brougham stated, that he should next put in a Deed, dated in December 1641, in which it appeared that Sir George Home, designated as of North Berwick, Knight and Baronet, eldest lawful Son and Heir Apparent to Sir John Home of North Berwick, had conveyed Land to Patrick his Brother.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) What have you in your Hand?
A Disposition by Mr. Patrick Home of Huttonell to William Wauchope of an Acre of Land lying within the Bounds of the Lands of Gleghorne, dated the 4th of December 1641.
Was that copied by yourself?
Yes, it was.
Did you compare it with the Original?
I did.
Is it a true Copy from the Original?
It is.

The same was delivered in, and read as follows:

"REGISTER OF DEEDS, BOOK XLII. FOL. 137.

"APUD Edinburgh decimo quarto Octobris 1642.

"In pace of ye Lordis of Counsell comprerit personallie Mr. James King procurato sxeallie constitut be yis vnderwrin dispositioun for Mr.
M' Patrik Home of Huttounbell and gave in the same subiut with
his hand desyreing ye same to be insert and regrat in ye bulk of
counsell and sessioun to have the streth of ane decreit of ye lordis
ýrof That letteris and executoriallas may be direct ywpou in maner
ýin mentionat The quhilk desyre the saidis lordis thought reasonabill
and thairfoir hes ordainet and ordaines ye same to be insert and regrat
in yair saidis buikis and decernis ye same to hawe ye streth of yair
decrete and ordaines letteris and executoriallas to be direct ywpou in
maner yairin mentionat ýrof ye tenor followis Be it kend till all men
be yir present letteris me M' Patrik Home of Huttounbell Forsamekill
as Sir George Home of Northberwick Knycht Barronet my brother
eldest lawfull sone and appeirand air to vmq S' Jon Home of Northber-
wick Knycht our fayer be his tres of alienaun and dispositioun subiut
with his handis of ye daitt att Ed' ye second day of October last by
past in yis instant zeir of God I c9 v' fourtie ane zeiris for ye caus one-
rous yairinconentit Sauld ânaliet and disponit to me my aires and
assignayes ātsomever heretablie and irredimablie All and hail that
aiker of land with the hous zaird and pertinents yairof liand w'in ye
boudes of ye landis of Gleighorne within the parochin of North-
berwick constabularie of Haddingtounie and ñredome of Ed' togidder
with dyverś yr' landis teyndis and annuernentis mentionat in ye said
dispositioun qrin ye said Sir George oblieat to him purches himself
enterit infest and seasit as air to ye said vmqil Sir Jon our father and
yaireffer to infest and sease me and my foirsaidis in the same and
grantit ane pro to me for yr' effect To be haldin and with warran-
dice in maner spëit in the said dispou âs ye same contening sundrie
wtheris heades and clausët maùr lenth bear and siklyk in ane court
of apprising haldin within the Tolbuith of Ed' wpou the second day
of Junii I c9 v' threttie fyve zeires befoir Hew Lawder mess The
Thair was apprsset to Thomas French ſruitour to his Mafie fra ye said
vmqil S' Jon Home of Northberwick the said S' George and me
his sones our aires and assignayes All and hail the aiker of land
foirsaidcallit ye Lady Aiker with the pertinents liand within the saidis
boudes of Gleighorne togidder with certaine wheris landis teyndes
reversiones and wtheris spëit in ye said apprising in satisfactioun to
ye said Thomas French of ye sowmes of money mentionat yirin ãk
apprsing is allowit be ye lordis of sessioun wpou the twentyfour
day of Julie I c9 v' threttie acht zeires In and to ye ãk proces of
apprising effect and contentis yairof The said Thomas French be
his askaun of ye dait ye last day of Junii I c9 v' threttie fywe
haweing maid and constitut M' Alexander Clarkson Andro Clerk in
Saint Androis his cessionar and asignay The said M' Alexander be
his translaun of ye dait the twenty ane day of Juli I c9 v' threttie sewin zeires
reòtie also proportion And now for ane certaine sowme of money
payit and deleyverit to me reallie and in effect be my weilbelouit
William Wauchope of Gleighorne for himself and in name and behal-
of George Wauchope his eldest sone and appeirand air ýrof I hald
me weill content satisisfit and payit and dischairs ym of ye samen
for
for ewir. To have sauld anaiet and disponit and be yir ūnīs
sellis ānaieties and disponis to the said William Wauchope in lyf-
rent dureen all ye dayis of his lyftime and to ye said George
Wauchope his sone his aires and exe1 assignayis āssumer her-
table and irredeemable bot ony reuersiouen redemption or regres
All and hail ye said aiker of land callit Ye Lady Aiker with the
hous sumtyme being yairwpoun zaird and pertinents ūrof now
posses be ye said William Lyand within the boundses of ye saidis
landis of Gleghorne foirnent ye maner place ūrof within ye said pa-
rochin of Northberwick constabularie of Haddintoun and areftime
of Ed1 and y tis ūnt aliena'un may be mair valeid and sufficient I
bind and obles me with all convenient diligence to purches and
obteane ye said Sir George Home my brother enterit and infect as
air to ye sē vnōll St Jon Home our father in ye said aiker of land
and in the yy1 landis and teyndes disponit be him to me be ye dis-
positioen foirsaid and yreft saill purches myself infect ūrin haldin of
ye King? Miūie wpoun my said brother his reūnān As also wpoun
the appysing foirsaid gif it salbe fund necessar be me to tak my
infemtment wpoun ye said appysing also for my better securitie and
sall get my said brother and my awne seasing dewlie extractit and
regrat as also sall caus regrat ye said disposition mai was my said
brother to me in the buikis of counsall ḋikis I sall produce and schaw
to ye said William all perfytted done and past and that betuixt ye
dait heirof and the first day of Junii nictocum but langer delay and
I being swa infect and seait in ye said aiker of land with the perti-
nentis now as yan and yan as now I bind and obles me my aires
and sucessoures dewlie and sufficientlie to infect and seas ye said
William Wauchope in lyfrent and the said George his sone his aires
maill and asfayais heretable and irredeemable in all and hail the
same aiker of land callit Ye Lady Aiker with the hous sumtyme
being yair wpoun zaird and pertinents ūrof Lyand as said is And
that be twa seueral charteris and infeunteis ane ūrof to be haldin
of me and my aires in frie blensch for zeirlie payment of ane penny
Scottis money at ye feist of Witsunday wpoun the ground of ye
saidis landis in name of blenschs fermes if ye same be requyrit and
to my imediat superio1 of ye said aiker of land of ye few dewtie con-
tent in ye originall infeunte of ye same for my releiiff yairament in
tyme cumeing and the wther chartour be to be haldin fra me and my
foirsaidis of my imediat superio1 of ye same sicklyk and als frelie in
all respectis as I hald ye same myself. And y tis reūnān & confir-
ma'un as best sall pleis ye said William his sone and his foirsaidis
And ywpoun sall subscrivyve and delvyver to ym all chartoures and
infeunteis necessar provyding always thay ye said superiour con-
sett to yair said infeunte be reūnān & confirma'un salbe pur-
cheist be ūmselfia be yair awine moyen and wpoune yair awne expen-
s and for ye better expiding of ye said infeunte be way of reūn-
na'un I have maid and constitut and be yir ūnīs makis constitutis
and ordaines . . . . . . . . . . . . . . . . . . . . . . . . . . . and ilk ane of ym
conjunctie and seuerallie my very laufull pro1 acto1 and spēall errand
beareres to the effect following giveand and comittand to ym my full
frie plaine power expres bidding and charge for me and in my name
and wpoun my ūmphalff to compeir befor our souerane Lord the
Kingis Majestie and his hieres successor1 and the lordis of excheir

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his
his Mäties comissioneris having power to receawe resigana'nis and to
grant infeftment of landis haldin of his grace. And ĳrwpon ĭtsam-
ever day and plæc convenient purlie and simpilie be staff and
basteoun as vse is with all reverence as becomes to resigne surrandar
and overgivye lykeas I be ye tenor heirof resigne surrandar wpgive
and overgivye all and hail the said aiker of land with the hous sum-
tyme beand ĳrwpon saird and pertinens ĳrof lyand as said is to-
gidder with all ry' tilill and entres that I and my foirsaidis hail be
or may Ģīnd yairto in ye handis of our said sowerane Lord or his suc-
cessouers ĳrof yair saidis commisioneris as in yair awne handis
supieroures of ye same in speall favo' & for new infeftment to
be grantit be ĥm ĳrof to ye said William Wauchop in lyfrent
and to ye said George his sone his aires maill and assnayis foir-
śdis in fie heretabille and irredemabile in dwe and competent
forme and yairwpon actis instrument and documentis to ask lif
and raifs as oft as neid beis and all whth things to doe that
to ye office of prōrie in sic casis of ye law and consuetude of
yis realme are knowin to pertein and y'I might doe yairin myself
if I war personalle ĵnt promittin to hail ĵrne and stabill &
with all clauses of warrandice necessar to be contenit in ye said
Chairtours lykeas now as giff ye same war alreadie maid and delyveret
and yane as now I faithfullie bind and oblies me my aires and suc-
cesso' ĵtsum' to warrand and defend to ye said William duehing his
lyftyme and to his said sone and his foirsaidis ye said aiker of land
with the pertinents to be frie saife and surā fra all wareis releveis non-
entress escheates forfaltō' recognitionis discla'ma'nis lyfrentis īnse-
rentinis former 'aliena'nis seasingis inhibitionis interdictions evictionis
appuryngis takis aseddavis and fra all yv' perrillis daingeris and in-
convenient alswell not nameit as nameit bygsein ĵnt as to commiįk
may ony wayes stop hinder or prejude ye said Wē' his sone and his
foirsaidis in the peacesble possessiou yof' at all handis and againes
all deidlie but fraud or guyll and forder I oblies me and my foir
to purchses and delyver to ye said William and his sone sufficient
dischargis of ye few dewtie of ye said aiker of land grantit be ye per-
sones haveand power to resesave ye same and that for all zeires by-
gaine preceeding ye dait heirof and sall warrand same yairmant and
of all actionis and dainger that they may susteen for ye same at all
handis. And sicklyk I be yir ĵnts ratifie and approvye ye said
William his possesiou of ye said aiker of land and declares ye same
to be gud and lawfull As also for me my aires executoris and assinis
exoneris and dischargis him of ye same & dewtie yairof dureing his
occupa'yun of the same in tyme bygaine Attour I be yir ĵnts mak
and constitut the said William in lyfrent and ye said George and his
foirsaidis my lawfull cessioneris and assnayis. In and to ye disposition
abonewin maid to and infavours of me be ye sē St'George Home
my brother anent ye aliena'un to me of ye said aiker of land and to
ye prōrie of resigana'un and to ye vtheris heides and claun ĳrof con-
ceawit in my favours. As also in and to ye proces of apprysing
abonespēit deduceit at ye instance of ye said Thomas Brēchassuitt
and transferitt to me as is abone expressesit and to ye hail effecit and
conteitis of ye same As also in and to all wtheris richtis and titectis
qlkis I have of and concerning the said aiker of land and to all
actionis & executiouin competet to me ĳrwpon with all that has fol-
lowit
lowit or may follow wpoun ye same And that swa far as allenerlie
ye same may be extendit to ye said aiker of land with the pertinentis
heirof disponit be me and sell newayis be extendit to ony wther
landis teydin ínuelrentis and wtheris mentionat in ye said dispoun
assna'un and wtheris richtis Surrogating and substituting the said
William his sone and his foirsaidis in my full richt and place of ye
saidis premis swa far as ye same may be extendit as said is in
vberiori asina'nis forma The ilk assna'un I obleis me to warrand
to be guid and sufficient at all handis and againes all deidlie And
for ye said William his sone and his foirsaidis yair said aiker of land
with the pertinentis I bind and obleis me to delyver to yame all
chaitroí infeftment and wtheris wreattis maid to me my autho' and
predecesso' yairof whane yair ar no wtheris landis and teindes exprest
bot onlie ye said aiker of land As also I sell delyver to yame wpoun
yair awne chaires the transumpt or extractis out of ye regre of all
vís infeftmentis rytis and titillí grantit to me my autho' and pred-
ecessor' ír yair ar landis and teydies mentionat and sell mak furth-
comقاءnd to yame the saidis prin' writtis and evidentis ín they sell
necessarlie have doe yairwith for persuit and defence of all actions con-
cerning ye said aiker of land and to ye' effect I sell ñntlie subscryve and
delyver to yin ane particular inventar of ye saidis wreattis and evident-
tis ilkis ar not to be delyuerit be me be ye ilk inventar I sell be
obleis to mak as ye same furthcomeand to yame as is abonespët And
in lykmaner I be ye ñntis renunce and overgieve to þ and in favours
of ye said William his sone and his foirsaidis all richt' and titill' ýt I
have or may ñnd to ye teind' of ye said aiker of land with the pertinent-
is in all tymie cuming be q' sumever maner of way richt' and titill
swa that they may bruik and posses ye same hes bein bruikut be me
and my predecessor' in tymie bygaine And finallie I'obleis me and
my foirsaidis that gif it sale pleis ye said George Wauchope and his
aires foirsaidis to hald ye said aiker of land of me in tymie coming In
that caic I obleis me and my foirsaidis to enter his saides aires ýrín-
till be peceptis of Clare Constat or wtherways gratis but any com-
positionis notwithstanding of q' sum' nonentrie that sell happin to be
in ye meanen tymie ñlk I heireby renunce forewir As also gif ye said
George and his foirsaidis sell' happin to dispone ye said aiker of land
to ony persone In that caic I obleis me to ressaue that persone
ýrin holdin of me be chaitour of resigna'un confirmà'un or wther-
ways gratis And to ýt effect sale not ly out wenentit in ye supe-
rrioritie of ye said aiker of land bot sail enter to ye same superrioritie
to ye effect ye said George and his foirsaidis may hald be prop-
pertie yairof of me They always bearing ye chaires in getting my
saidis aires enterit and infekt in ye said superrioritie And last I ob-
leis me and my foirsaidis to content and pay to ye said William Wau-
chope and his foirsaidis the sowme of twenty pundis money as for
expen’ agreit wpoun betwixt ws in caice of neces' regra’un of yir
ñntis and vseeing execu’un heirewpoun againes me in my default by
and attour ye implement and fulhilling of ye same renunceand all re-
mead of law that may be proponit in ye contrair And for ye mair
securitie I am content and consentis yir ñntis be régrat in ye buikis
of counsall and sessioun to have ye strenght of ane decreit of ye
Lordis yairof with exe’ of horneing wpoun ten dayis and wtheris
requisite to pas heirewpoun in forme as effeire And constitutis Mr.
James
James King my prov In witnes qrof wren be James Smetoune s\vitor to James Kirkwood wryt Subscryvet wt my hand at Ed\t the fflourt day of December I c9 vii fflourie ane zeires Befoir yir witnes the said James Kirkwode James Smyth and James Smetoun his Fuitoure Sic subv.

JA. KIRKWODE witnes.
P. HUME Witnes.
JA. SMITH witnes.

"That what is contained on this and the Fifteen preceding Pages of stumped Paper is faithfully copied from the Records in His Majesty's General Register House at Edinburgh, is attested by me, one of the Keepers of these Records.

(Signed) WILL." ROBERTSON."

Then Mr. Brougham stated, that he should prove that Sir John Home of North Berwick was succeeded by his eldest Son George, by a Retour of his Service as Heir to his Father, in which he was styled, Sir George Home of Tulliecastle.

Then GEORGE HOME, Esquire, was further examined as follows:

(Mr. Brougham.) What is that in your Hand?

A Retour of the Special Service of Sir George Home of Tulliecastle, as Heir Male of the deceased Sir John Home of North Berwick, his Father, dated the 10th of February 1642.

From whence did you get that?
From the Charter Chest of Sir Hugh Dalrymple.

Mr. Attorney General objected to this being received in Evidence.

Whereupon it was withdrawn for the present.

The Witness was directed to withdraw.

The Counsel were directed to withdraw.

Proposed to adjourn this Committee to Tuesday Se'nnight.

Accordingly,
Adjourned to Tuesday Se'nnight.