

**REPORTS OF CLAIMS PREFERRED TO THE  
HOUSE OF LORDS IN THE CASES OF THE  
CASSILLIS,  
SUTHERLAND, SPYNIE, AND GLENCAIRN  
PEERAGES, 1760-1797; WITH APPENDIX  
OF ILLUSTRATIVE DOCUMENTS**

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Reports of Claims Preferred to the House of Lords in the Cases of the Cassillis, Sutherland, Spynie, and Glencairn Peerages, 1760-1797; With Appendix of Illustrative Documents by James Maidment

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**JAMES MAIDMENT**

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AND GLENCAIRN PEERAGES.

M.DCC.LX.-M.DCC.XCVII.

WITH APPENDIXES OF ILLUSTRATIVE DOCUMENTS,

BY

JAMES MAIDMENT, Esq.,

ADVOCATE.



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## P R E F A C E,

(AS IT WAS ORIGINALLY ISSUED IN 1840.)

THE Reports included in this volume embrace the whole Scottish cases (excepting the Borthwick and Roxburghe Baronies) in which the rule has been recognised as absolute, that where no patent of creation exists, the presumption is in favour of heirs-male, unless it can be shown by competent evidence that the descent is to heirs-general.

In the Borthwick Peerage, where no patent could be found, the claimant was not the heir of line, but the heir-male of the body. The exclusion of the former from the title was never controverted, and the question was argued upon the assumption that the Barony was a male fief—the only point in dispute being, whether Mr Henry Borthwick had proved his pedigree, and this having been done, it was, 8th April 1762, adjudged that “the Petitioner hath a right to the title, honour, and dignity of Lord Borthwick, as heir-male of the body of the first Lord Borthwick.”

In the claim to the Roxburghe Barony, it was resolved, May 11, 1812, “That none of the persons claiming the Barony of Roxburghe have established any title thereto, it being the opinion of this House that as the said dignity might have been granted by letters patent to the grantee and a series of heirs, not so comprehensive as to carry the

said dignity to such heirs as the claimants respectively represent themselves to be, it ought, according to law, to be presumed that the same was not granted to such heirs; and it appears to this House that the said dignity has not been in fact assumed or enjoyed since the death of Robert Baron of Roxburghe, without heirs-male of his body begotten, by any heir or heirs of the said Robert Barou Roxburghe."

Accident having put the Editor in possession of authentic copies of the speeches delivered in the cases of Cassillis, Sutherland, and Glencairn, and of such notes as had been preserved of the observations of Lord Mansfield on moving the resolutions in the claim to the Barony of Spynie, he was induced to preserve them in this shape, and to print for private circulation a volume, which, it is hoped, will not be unacceptable to those who take an interest in Peerage Law.

J. M.

10 FORRES STREET, 10th Dec. 1839.

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### POSTSCRIPT.

Mr. JOHN RIDDELL, in his "INQUIRY INTO THE LAW AND PRACTICE IN SCOTTISH PEERAGES," 1842, remarks:—"I may allude to the contributions of JAMES MAIDMENT, Esq., Advocate, to whose publications—as has been sufficiently obvious by my references—of the judicial speeches and opinions that happen to be preserved in certain Scottish Peerage cases, with apposite statements and remarks,—besides various others, respecting our history and antiquities, &c. &c., the public are much indebted. One great and most important object, *inter alia*, has been thus attained, of bringing the public into juxtaposition with, and making them fully aware—of the peculiar doctrines and *expedients* of Lords Mansfield and Rosslyn,—only hitherto transpiring in MSS. in private repositories; and



hence inducing a fair test,—and by it, inevitable refutation of their numerous errors and heresies.”

[Mr JAMES MAIDMENT, Advocate, died at his house, Royal Circus, Edinburgh, on Friday, 24th October, 1879, aged eighty-six years.]

Since the Judgment pronounced by the House of Lords in the case of the “EARLDOM OF MAR,” many applications have been made to me for copies of Mr Maidment’s “Reports of Peerage Claims,” &c., which, from the limited number originally printed, could not be supplied, and copies, when they occurred at sales, brought large prices,—Mr Maidment’s own copy having sold, at his sale on the 5th May 1880, for the sum of FOUR POUNDS, TEN SHILLINGS! I have been induced to REPRINT this collection, chiefly to gratify the wishes of a few friends, patrons, and collectors of such interesting documents.

T. G. S.

EDINBURGH, June 1882.





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