

No. 61. title produced that charter and the sasine on it ; so the objection was, that this last sasine was void and null, because the confirmation made his former infeftment a public infeftment, and that sasine was not lodged. We repelled the objection, and ordered him to be enrolled.

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1754. January 4. CUNNINGHAM of Ballindalloch *against* ———.

No. 62.

CUNNINGHAM of Ballindalloch complained that they refused to enrol him. The objection was, that he had no sufficient proof of the valuation of his lands. Answered, They stand valued in the Collector's books L.437. ; they are valued the same in the valuation books in Exchequer 1691 ; and there is no original valuation or book authenticated by the Commissioners extant. The freeholders produced an old tattered book, which they said was the Cess-book 1687, but signed by nobody, wherein these lands are stated as valued jointly or *in cumulo* with other lands, and said that there appeared no legal division of them since. The Court ordered him to be enrolled. (See DICT. No. 7. p. 2436.)

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1754. January 9. CAPTAIN ROBERT CUNNINGHAM *against* ———.

No. 63.

CAPTAIN ROBERT CUNNINGHAM complained of their refusing to enrol him for his lands of Seabeggs, in respect there was no legal valuation of his lands, at least no legal division ; that these lands were in the Exchequer book 1691 jointly valued with other lands at L.888, and being purchased by the Major, he took a charter to himself in liferent and his eldest son in fee ; that in 1739 he renounced his liferent of these lands of Seabeggs ; in 1743 complaint was entered against him in terms of the act 16th Geo. II. ; but as in 1739 he got two Commissioners to divide the valuation, and to value Seabeggs at L.414, the complaint was passed from and he continued on the roll ; in 1745 he purchased other lands to himself, mentioned in No. 61 ; he conveyed these lands to the claimant his eldest son, who again conveyed the lands he formerly had to the second son : And the objection to the claimant was, that the division by two Commissioners privately met, and not at a general meeting or one called by the Convener, was not a legal division. Answered, The objection may be good where the original valuation is extant, but here there is none ; that a complaint was entered in

1743, but passed from as not founded; that in this country the tenants pay the Cess, whereby the valuation of each farm is known. The Court sustained the objection and dismissed the complaint.

No. 63.

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1754. *January 15.* GRANT *against* ABERNETHY.

No. 64.

ABERNETHY of Crimonmoggat having been enrolled as apparent-heir without lodging any claim with the Sheriff-clerk, as the act 16th Geo. II. directs, we ordered him to be expunged on Sir Archibald Grant's complaint.

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*Eodem Die.* GORDON of Lessmore.

No. 65.

ON the same complaint we ordered Sir Alexander Gordon of Lessmore to be expunged, for that in his claim the valuation of his lands was left blank.

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1754. *January 18.* FORDYCE of Gask, *Supplicant.*

No. 66.

FORDYCE of Gask complained of being refused to be enrolled though he produced a retour in 1513, bearing that the lands of Gask, and an annuity of 18s. 4d. out of another subject, were 10 merks of old extent. Answered, That upon a complaint against him upon the act 16th Geo. II. to which he gave in no answer, we ordered him to be expunged in February 1745, and therefore the freeholders could not enrol him till that decret was reduced. Replied, That decret was just, because he put in no answers and produced no title, and therefore cannot be reduced, and he had no other way to be enrolled but by a new application to the freeholders. We repelled this defence. *2do*, Answered, that he has no right to the annuity in the retour, and the old extent cannot be divided. Replied, The retour sufficiently divides them, for an annuity always *valet seipsum*, and can be valued no more, so the lands are clearly nine merks. They also alleged that Gask comprehended sundry other lands, and they could not then be nine merk of old extent when they are but L.300 valuation, but could not condescend on the lands. The Court was much divided, but it carried to sustain the complaint. (See DICT. No. 36. p. 8619.)