

No. 67.

1754. *February 6.* CAMPBELL of Succoth *against* ———.

MR CAMPBELL of Succoth complained for refusing to enrol him, who had acquired a proper wadset that had been purchased in 1735 by the deceased Captain Campbell from Herbertshire, of lands partly property, partly superiority, valued L.410. It was objected, that a superiority could not be wadset. *2do*, That it was not a proper wadset, for that in case any casualties of superiority fell he was accountable for them. *3tio*, That the valuation of the property lands was only divided by a private meeting. Answered, A superiority may be wadset as well as any other right. To the *2d*, That makes the right no worse than if the casualties had been discharged or gifted or reserved, which does not make the wadset improper. To the *3d*, That that division was approved by a general meeting in 1753. Objected, *4to*, That Herbertshire having acquired the property of these lands whereof he had wadset the superiority, he conveyed both property and superiority to Lady Forrester, who conveyed them to Forrester of Dunnovan, who is publicly infest and in possession. Answered, That infestment cannot hurt the complainer's prior infestment whereof Lady Forrester was in the knowledge, as is proved by bonds granted to her by Herbertshire and Solicitor Haldane. The Court repelled the three first objections, but superseded the fourth till we should have evidence of possession. Herbertshire reclaimed, and then entered an appeal, which he was afterwards allowed to withdraw on paying L.40 of costs; and answers being put in with the proofs of possession, we adhered and repelled the objection of want of possession, and ordered him to be enrolled. And on a fresh appeal the judgment was affirmed in Parliament, April 1754. (See DICT. No. 8. p. 2439.)

No. 68.

1754. *March 1.* ABERCROMBY *against* DUFF, &c.

COLONEL ABERCROMBY complained of enrolling Lord Braco's two sons, Mr James Duff the eldest, and Mr Alexander and Mr Innes, *inter alia*, because the lands conveyed to them were jointly valued; that Lord Braco had conveyed also the teinds of his eldest son's lands, but had not conveyed the teinds of Mr Alexander Duff's or Mr Innes's lands; that the Commissioners had divided the valuation according to the rent-rolls, and yet had not deducted the teinds of Mr Alexander's or Mr Innes's lands; and though he has since conveyed the teinds on which they have a new char-