

No 6.

' THE LORDS found the valuation not divided in terms of law ; and ordained William Leslie to be expunged from the roll of freeholders.'

Act. *A. Lockhart et R. Craigie.* Alt. *J. Ferguson et Advocatus.* Clerk, *Kirkpatrick.*

S. *Fol. Dic. v. 3. p. 136. Fac. Col. No 68. p. 102.*

1754. *January 9.*

Captain ROBERT CUNNINGHAM *against* GEORGE STIRLING, Esq.

No 7.  
Found as above.

At the Michaelmas meeting 1753, Captain Robert Cunningham presented to the freeholders of Stirlingshire a charter and sasine in his favour of part of the lands of Seabegs, and a certificate that his lands stood rated in the cess book at L. 414 : 2 : 10 Scots, and claimed to be enrolled in the roll of freeholders, entitled to vote for a member to serve in Parliament for that county.

George Stirling, one of the freeholders, *objected*, That in the cess book 1691, these lands stand valued *in cumulo* with other lands, and were only separately valued in 1739, not by a legal meeting of the Commissioners of Supply, but by two Commissioners, who, without any proper authority or proof of the real rent, ordained the said lands to be rated in the cess books at L. 414 : 2 : 10 ; and the freeholders sustained the objection.

Captain Cunningham complained to the Lords of this judgment ; and *pleaded*, That there was a great difference betwixt his case and that of Leslie of Melross, (No 6. p. 2437.) where the objection, that the division was made by a private meeting was sustained, because the original valuation of the shire of Banff, where Leslie craved to be enrolled, was extant ; but the original valuation of Stirlingshire was not ; and therefore there was no proper evidence of a valuation *in cumulo*.

*2do*, That it had been the constant practice of the shire of Stirling to divide valuations by such private meetings.

*Answered* for George Stirling and other freeholders, That where the original valuation does not appear, recourse must be had to the next best evidence, which here is the cess book 1691, whereof a copy is kept in exchequer, and from which the valuation *in cumulo* appears. *2do*, Mr Cunningham's application for a division in 1739 is a sufficient evidence of a valuation *in cumulo* ; and, as to the practice of the shire, answered, it has not always been so : and, though it had, no practice could authorise a division so contrary to the acts of Parliament, by which the meetings of the Commissioners and their method of procedure are regulated.

' THE LORDS dismissed the complaint.'

Act. *Lockhart et Jo. Grant.* Alt. *Ja. Ferguson et Bruce.* Clerk, *Forbes.*

B.

*Fol. Dic. v. 3 p. 136. Fac. Col. No 96. p. 146.*