

1747. November 10.

KERR of Moriston *against* REDPATH of Angelraw, DICKSON of Newbigging, and MR JAMES PRIMROSE.

No. 49.

REDPATH produced a retour in 1666, retouring both old and new extent to 7 merks and 4 d., and the feu-duty to 7 merks and 40 d. Dickson of Newbigging's Case was the same, but that there was a further feu-duty of 2 shillings *in augmentationem rentalis*; and we sustained the objection to both, as we had done 4th June 1745, 4th and 14th June 1746, in Cleland's Case, (No. 44, *supra*,) and 24th June 1747, in M'Cara's Case, (there referred to).—Primrose's case was, That by his mother he is one of three heirs-portioners in a 40 shilling land, and was also infest base upon a disposition of the whole by the last vassal: But we sustained also the objection against him. (See DICT. No. 17. p. 8577.)

1748. June 7. HOME CAMPBELL *against* SIR JOHN HOME.

No. 50.

THERE being an adjudication of Sir John Home's estate, whereof the legal was *ex facie* expired before 1st December 1743, the time limited in the late act, and his estate sequestrated by us at the suit of his creditors; Mr Home Campbell complained that the freeholders at Michaelmas last, upon an objection made, refused to strike Sir John out of the roll; and upon answers we found, *1mo*, That there being no alteration in Sir John's circumstances since 1st December 1743, the freeholders could not judge of the election. *2do*, We unanimously found the objection not relevant, since the adjudger was not in possession, and Sir John was by the factor;—and by a majority found expenses due. (See DICT. No. 127. p. 8738.)

1750. June 20. SINCLAIR of Southdun *against* SUTHERLAND of Forse.

No. 51.

SINCLAIR of Southdun had complained to us in 1744 of the freeholders refusing to enrol him; but observing that the valuation of his lands had not been properly divided from others with which they had been jointly valued, he did not then follow out his complaint, but got them now divided. He applied again to the freeholders in 1749, and on being refused complained again to us. The freeholders answered, That they could not alter what a former meeting had done, and they having refused him in 1744, not for

any defect in the division of his valuation, the freeholders in 1749 could not receive him. As to that point of law the Court was divided; but we first conjoined the two complaints together, and then found him entitled to be enrolled. The freeholders also sought expenses because they had done nothing amiss, but we found none due. (See DICT. No. 221, p. 8845.)

No. 51.

1751. February 8.

SUTHERLAND of Swinzie *against* SUTHERLAND of Langwell.

No. 52.

SUTHERLAND of Swinzie having complained for refusing to enrol him, though he produced a sentence of the Commissioners of Supply, dividing the valuation of his lands of Risple from the lands of Langwell, whereby the first was valued at L.4 12s.;—the defence was, that the sentence was most partial and iniquitous, and for that reason they had raised reduction, wherefore the complaint was delayed till the reduction should come in, and which was reported by me this day:—the reasons of reduction were chiefly two. 1st, That the Commissioners had not qualified by taking the oaths. Answered, The act authorizes them to act, if they either had already qualified or should qualify, and they had all formerly qualified. Replied, The Supply Act 1748 and 1749 introduced another *proviso* obliging the Commissioners to qualify anew before they act in execution of these acts. Duplied, That *proviso* has an annexed penalty of L.20 sterling;—*Ergo*, Their acts are not void, only the penalty is incurred.—The second reason was, great iniquity in making the division. Answered, These Commissioners are Commissioners of Parliament, and none of their proceedings can be reviewed by the Courts of law. We were very unwilling to determine this last point, because of difficulty, and likewise of manifold inconveniencies on both sides, therefore we determined the first, and found these Commissioners not capable to act, and dismissed the complaint. *Vide* Sir John Gordon's Case, No. 53. (See No. 58.)

1751. February 12.

SIR JOHN GORDON of Invergordon, *against* SIR JOHN GORDON of Embo,
and M'KAY of Bighouse.

No. 53.

SIR JOHN GORDON of Invergordon having complained of the freeholders refusing to admit him on the roll of electors, and having on our warrant ex-