

1753. *December 5.* LORD LYON'S CASE.

No. 59.

ON report of Lord Shewalton, the Lords passed a bill of inhibition against a Member of Parliament, (Lord Lyon.) Some thought we were not bound to know who were Members of Parliament. Others thought that prohibitory diligence could be no breach of privilege; but I doubted of both.

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1753. *December 20.*

M'KENZIE of Highfield, and M'LEOD of Cadboll, *against* SIR JOHN GORDON, &c.

No. 60.

IN Cromarty there has been no Michaelmas Head-Court since the act 16th Geo. II. in 1743, and there are but five freeholders on the roll, Sir John Gordon, his brother Charles, his brother-in-law Leonard Urquhart, his cousin Gordon of Ardoch, and M'Leod of Cadboll, who does not qualify. M'Kenzie of Highfield in due time lodged his claim for being admitted on the roll at last Michaelmas, and also lodged objections both in his own name and Cadboll's, against the other four on the roll. At the day Cadboll came not to the town, and the other four, though in the town, would not go to the place of meeting; and the Sheriff-clerk, though required by Highfield, neither could nor would constitute a meeting; and thereupon Highfield entered his complaint before us, which was served on 30 days in common form. And upon answers and a hearing in presence, we found the complaint not competent, and dismissed it. We thought it a very great abuse, but we agreed that it was not within the act 16th Geo. II., and therefore not competent in this form. *2do*, Though it were competent, most of us thought we could give no relief, that we could neither fine the freeholders for non-attendance, nor put the petitioner on the roll, nor expunge any of the other four, till the freeholders had first given their judgment. (See DICT. No. 202. p. 8880.)

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1754. *January 3.* MAJOR CUNNINGHAM *against* ———.

No. 61.

MAJOR CUNNINGHAM complained that the freeholders had refused to enrol him. He had got a disposition of his lands with procuratory and precept *a me* or *de me*, and was infeft on that precept; and thereafter he executed the procuratory and got a charter of resignation containing a confirmation of his former infeftment, and was infeft on that charter; and as his

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