

1754. March 6. CAMPBELL *against* STIRLING.

No 74.

A DIVISION by a private meeting was found to be homologated by a reference made to it by a meeting regularly called. This decision was affirmed on appeal.

Fol. Dic. v. 3. p. 412. Fac. Col.

. See the particulars, No 8. p. 2439, *voce* COMMISSIONERS OF SUPPLY.

1755. February 18.

THOMAS FORRESTER of DENOVAN, *against* Sir GEORGE PRESTON of Valleyfield.

No 75.

SIR GEORGE PRESTON was enroled in the roll of the freeholders of the county of Stirling entitled to choose a representative to Parliament, at their meeting held for election 17th May 1754.

Thomas Forrester, one of the freeholders, complained of the enrolment to the Court of Session, and *objected*, That the defender's lands were not of L. 400 valuation, and that the Commissioners of Supply, who had lately disjoined their valuation from the original valuation *in cumulo* of the barony of Airth, whereof they were a part, had made a wrong division on purpose to create a vote to the defender. For, *1st*, The committee of Commissioners, in taking a proof of the rent of these parts of the barony which belong to Mr Graham, and had been feued out by him and his authors, had only taken a proof of the feu-duties payable to Mr Graham; whereas, when any of the defender's lands had been feued out, they had taken a proof of the real rent of these lands, as appeared from the minutes of the Commissioners of Supply, where this unfair proceeding of the committee was objected against. *2dly*, The committee had omitted altogether to take a proof of the rent of some parts of the barony which belonged to Mr Graham, amounting to L. 412 Scots yearly which had been objected against the report of the committee when made to the general meeting of the Commissioners of Supply, and the pursuer had offered to instruct the objection to the meeting of freeholders by the affidavits of the tenants in these parts of the barony, and now offered to prove these facts by them and by other witnesses.

Answered for the defender; *1mo*, That the feu-duties were the real rents of the lands at the time they were feued out, and that the encrease of the real rent was owing to the feuers building houses on their feus; and therefore that the feu-duties ought to be considered as the rent, conform to which the valuation of the lands should be divided. *2do*, That the feues belonging to Mr Graham were numerous and small; so that a proof of the real rent of them would have been very difficult, if not impossible, especially as many of them

If the division of the valuation, of lands appear *ex facie* to be regular, the court of freeholders ought not to reject it, nor will the Lords set it aside by exception, altho' the objector offer to prove that it was made improperly and without evidence; tho' it may be set aside by reduction.