

1773. August 10. ABERCROMBIE *against* GORDON.

No 69.

MILLS, where they have been once valued, ought to receive a proportion of the *cumulo* to be divided. See APPENDIX.

Fol. Dic. v. 3. p. 409.

1791. February 23. DUNDAS and LAING *against* TRAIL.

No 70.

THE statute 1649, directing the Commissioners to report the value of all feu or tack-duties payable to any person, his Majesty's duties excepted, it was questioned, whether, on account of this exemption on lands holden of the Crown, the lands liable in payment of these duties were to be retoured at their full value, or with a deduction corresponding to their feu-duties.—THE LORDS found, That such lands ought to be retoured at their full value.

Fol. Dic. v. 3. p. 409.

*** This case is No 48. p. 8639. *b. t.*

S E C T. V.

How a division of Valuation may be set aside.—Every Party interested in a division ought to be made a Party to it.—Erroneous division.

1751. February 12. GORDON *against* GORDON.

No 71.

THE Court of Session is competent to set aside divisions of valuation made by Commissioners of Supply, upon defects in point of form.

Fol. Dic. v. 3. p. 411. D. Falconer.

*** This case is No 79. p. 7345, *voce* JURISDICTION.

1753. February 21. COLONEL ABERCROMBY *against* LESLY of Melross.

AT a meeting of freeholders of the county of Banff, *anno* 1752, William Lesly of Melross, was inrolled for certain lands, valued at L. 400, by a decree of the Commissioners of Supply produced to the meeting.

No 72.
There can be
no regular
meeting of

No 72.
the commissioners of the land-tax, but by appointment of the convener, or of a former meeting. A freeholder whose valuation had been divided at a meeting not regularly called, was expunged from the roll.

A petition was presented to the Court of Session by Colonel Abercromby, complaining of this enrolment, for the following reason, That there was no legal evidence of the valuation, the meeting of the Commissioners who divided the valuation being irregular, neither appointed by a former meeting, nor called by the convener.

THE LORDS were clear, that by all the statutes for the land-tax there can be no regular meeting of the Commissioners but by appointment of a former meeting or of the convener; and therefore ordained Lesly of Melross to be struck out of the roll.

My single difficulty was, That admitting the objection against the decree of the Commissioners, does it follow that the respondent must be struck out of the roll, when, after all, his lands may bear a valuation to entitle him to a vote. It appears more agreeable to the rules of justice, that this Court, thought but a Court of appeal in matters of this nature, might take evidence, before answer, to clear the fact whether the respondent had, or had not a qualification. But the act 1681 affords an answer. It is declared, 'That none shall have a vote, but who at the time shall be publicly infeft, and in possession of a forty-shilling land of old extent, or shall be infeft in lands liable in the King's supply for L. 400 of valued rent.' This points out lands actually enrolled in the cess-books for L. 400, which indeed is the only rule for the freeholders, who have no power to value or to split a valuation; and therefore, though a man should be in possession of the major part of a barony, valued, if you please, at L. 1000, yet this gives him no qualification. His lands must be separately valued by a regular meeting of the Commissioners. The barons did wrong to admit the respondent upon the roll when he had no qualification. It was right therefore to expunge him; reserving to him a second application, when he obtains a proper qualification.

Fol. Dic. v. 3. p. 412. Sel. Dec. No 41. p. 46.

. This case from the Faculty Collection, is No 6. p. 2437.
voce COMMISSIONERS OF SUPPLY.

1754. January 9. CUNNINGHAM *against* STIRLING.

No 73.

This objection to a division of valuation was sustained, that it was made at a meeting not regularly called, although the original valuation of the county was not extant; on which ground it was *argued*, That there was no proper evidence of a *cumulo* valuation, the cess-books being said to be insufficient to prove that point.

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

. This case is No 7. p. 2438, *voce* COMMISSIONERS OF SUPPLY.