

SECT. III.

The Rental how made up.—Liferents how computed.—Proof of the Value how taken.

1685. *Octob. 28. & Decem. 9.* EARL of MAR *against* LADY CARDROSS.

No 5.

By commission from the Lords of Session, my Lord Cardross's estate is roused, and the Earl of Marr buys it, at 17 years purchase. The Lady Cardross complained, by a bill, that the rental was too low, it bearing no consideration for house, yards, plantings, and parks, which, in all sales, use to be valued; and, without these, the lands would give less. But the LORDS refused to allow any thing for the house and yards; and ordained her to produce her factory and commission from her husband, now in Carolina.

Fol. Dic. v. 2. p. 311. Fountainhall, v. 1. p. 371.

1709. *July 9.* The EARL of SEAFIELD *against* OGILVIES.

No 6.

Liferents
how comput-
ed.

THE Earl of Seafield being donatar to the single and liferent escheat of Ogilvies elder and younger of Boyne, and pursuing for a sale of the estate, he craved in the terms of the acts of Parliament, establishing these sales, that the LORDS would put a price on both their liferents, which the LORDS fixed, the father's at four years purchase, being aged 70, and the sons at six, being about 40; but one doubt occurred, that he having come along with the French invasion from Dunkirk in March 1708, was outlawed, denounced fugitive, a price put upon his head, and so in law was *civiliter mortuus*. But there being no compearance nor opposition, the LORDS proceeded to value it at the rate aforesaid.

Fol. Dic. v. 2. p. 310. Fountainhall, v. 2. p. 513.

1748. *December 9.* EARL of MORTON, Petitioner.

No 7.

Proof of the
value regu-
larly not ta-
ken upon
commission.

IT is not the practice in sales to grant warrant for taking a proof of the value on commission; yet commission was in this case granted, in respect the lands lay in Shetland, the inhabitants whereof, of any note, have little occasion to resort to this place, and because it would be hard to bring them from so great distance.

Fol. Dic. v. 4. p. 209. Kilkerran, (RANKING and SALE.) No 5. p. 471.