

for not doing so, he may remove the objection, by afterwards producing it in this Court.

No 255.

The objection to Mr Proctor's sasine, is neither sanctioned by the statute 1693, nor by practice.

THE COURT unanimously repelled the objections.

For the Complainer, *Lord Advocate Dundas, Solicitor-General Blair, Geo. Fergusson, Ar. Campbell, jun.* Alt. *H. Erskine, Hay, M. Ross, Gillies, Robertson Scott.* Clerk, *Home.*

Fol. Dic. v. 3. p. 434. Fac. Col. No 214. p. 505.

S E C T. IV.

Whether the Court of Session may admit Evidence not laid before the Freeholders.

1755. *January 17.*

Mr JOHN CALLENDER of Craigforth, Advocate, *against* Mr ROBERT BRUCE of Kennet, Advocate.

THE defender was enrolled in the roll of freeholders of the county of Stirling, at their Michaelmas meeting 1753.

The pursuer, one of the freeholders, complained, and made sundry objections against the decret of the Commissioners of Supply, dividing the valuation of the defender's lands from the valuation of the barony of Kerse, of which they were a part.

The defender admitted, that the Commissioners had not proceeded so regularly in the division of his valuation; but represented that, since giving in of the complaint, a General Meeting of the Commissioners of Supply had made a new division of the valuation of the whole barony, and offered to produce an extract thereof, by which it would appear, that none of the pursuer's objections, nor any other objection, lay against this new division, according to which the valuation of the defender's lands exceeded L. 400 Scots; that the defender had been enrolled without any objections offered to the Meeting against his enrolment, and that he was, at the time of the enrolment, as well as now, the Crown's vassal in lands of the valuation required by law; so that the Meeting did right, both formally and materially, when they enrolled him, and therefore he ought to continue on the roll.

Answered for the pursuer, That none are entitled to be enrolled, unless they produce to the Meeting legal evidence that their lands are valued at or above

No 256.

A freeholder having been enrolled on an erroneous division of the valuation of his lands, produced, with his answers, to a petition and complaint, an after division, which was unexceptionable. The Lords, however, ordered him to be expunged from the roll, reserving to him to lodge a new claim on the last division.

No 256. L. 400 Scots; and, as the defender did not produce to the Meeting legal evidence of the valuation of his lands, he was not entitled to be enrolled, and cannot continue upon the roll in virtue of that enrolment, although he may be entitled to be enrolled by an after meeting, upon producing proper titles.

“ THE LORDS sustained the objection, and found, That it was not now competent to supply the errors or defects in the division of the valuation made before the enrolment, so as to validate the enrolment thereon; and therefore ordained the defender to be expunged from the roll, reserving to him to apply for being enrolled upon any new regular division of the valuation.”

Act. Lockhart & And. Pringle. Alt. Ja. Dundas. Clerk, Forbes.

Fol. Dic. v. 3. p. 434. Fac. Col. No 130. p. 191.

1767. February 17. SIR JOHN GORDON *against* FRASER, &c.

No 257.

SIR JOHN GORDON claimed to be enrolled at Michaelmas 1766, but neglected to produce a retour to show the old extent of the lands on which he claimed. Having complained against a judgment of the freeholders, rejecting him, he produced a retour with his petition, from whence it appeared that his lands were of the full legal extent. THE COURT dismissed the complaint.

1767. May 4.—THE HOUSE OF LORDS affirmed the decree, and declared “ That the titles produced by the complainer to the freeholders, upon which he claimed to be enrolled, were essentially defective, for want of showing a retour; for which reason the freeholders did right in refusing to enrol him; and that upon his petition, complaining of such refusal, the Court of Session was confined to the titles laid before the freeholders, having no jurisdiction by the statute in that case made and provided, to order a claimant to be enrolled upon any title originally produced to them, and not laid before the freeholders in the first instance.”—See APPENDIX. See No 17. p. 1700.

Fol. Dic. v. 3. p. 435.

1767. December 19.

Captain JAMES STEWART *against* ALEXANDER ROBERTSON,
Writer to the Signet.

No 258.
In reviewing
the judgment
of freehold-
ers, the
Court of Ses-
sion cannot
receive evi-

AT Michaelmas Head Court 1767, Captain James Stewart claimed to be enrolled as a freeholder in the county of Forfar, upon the lands of Nevey; and he produced a certificate from two Commissioners of Supply of that county, bearing, that these lands stood valued in the cess-books at L. 800 Scots.