

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.

No 257.

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

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.

It was *objected* by Mr Robertson, ' That the certificate produced does not instruct the valued rent of the lands claimed upon ; that certificate is only evidence, that the lands which belonged to the Laird of Nevay, in the parish of Nevay, are valued in the roll 1683, at L. 800 Scots ; but there is no evidence produced to the freeholders, that these are the lands claimed upon.'

It was *answered* for the claimant ; That the certificate and old cess-books produced, instructed, that the lands claimed on were the lands which formerly belonged to the Laird of Nevay ; and it was said, that the fact was notoriously known in the country.

The freeholders refused to enroll Captain Stewart, who complained to the Court of Session ; and, along with his petition and complaint, he produced a connected progress, which proved, that the lands he claimed upon were those which had formerly belonged to the Laird of Nevay, and stood in the valuation-roll and cess-books at L. 800 Scots.

It was *answered*, in support of the objection, That Captain Stewart had not produced to the freeholders evidence sufficient to satisfy any Court, that the lands to which he had right were the lands entitled to the valuation he claimed ; and that, although he produced to the Court of Session sufficient evidence to instruct that fact, it could not be received ; as the only question under the consideration of the Court was, Whether the freeholders did right or wrong in refusing to sustain the complainer's claim upon the evidence before them ? That, if the freeholders had judged properly upon the evidence produced to them, their judgment could not be overturned in consequence of any new or additional proof, which had never been under their consideration ; and therefore the writings produced along with Captain Stewart's complaint could not be received.

" THE LORDS, having heard this petition and complaint, with the answers thereto, and writs produced, find, That the freeholders did right in refusing to enrol the petitioner at last Michaelmas ; and therefore dismiss this complaint," &c.

Captain Stewart gave in a very full petition against this interlocutor, which was refused without answers.

For Captain Stewart, *M. Queen, Ilay Campbell, &c.*

For Mr Robertson, *Lockhart, Rae, Alex. Elphinstone, &c.*

A. E.

Fol. Dic. v. 3. p. 435. Fac. Col. No 70. p. 123.

No 258.

dence which was not produced to the freeholders.