

1743, but passed from as not founded; that in this country the tenants pay the Cess, whereby the valuation of each farm is known. The Court sustained the objection and dismissed the complaint.

No. 63.

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1754. *January 15.* GRANT *against* ABERNETHY.

No. 64.

ABERNETHY of Crimonmoggat having been enrolled as apparent-heir without lodging any claim with the Sheriff-clerk, as the act 16th Geo. II. directs, we ordered him to be expunged on Sir Archibald Grant's complaint.

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*Eodem Die.* GORDON of Lessmore.

No. 65.

ON the same complaint we ordered Sir Alexander Gordon of Lessmore to be expunged, for that in his claim the valuation of his lands was left blank.

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1754. *January 18.* FORDYCE of Gask, *Supplicant.*

No. 66.

FORDYCE of Gask complained of being refused to be enrolled though he produced a retour in 1513, bearing that the lands of Gask, and an annuity of 18s. 4d. out of another subject, were 10 merks of old extent. Answered, That upon a complaint against him upon the act 16th Geo. II. to which he gave in no answer, we ordered him to be expunged in February 1745, and therefore the freeholders could not enrol him till that decret was reduced. Replied, That decret was just, because he put in no answers and produced no title, and therefore cannot be reduced, and he had no other way to be enrolled but by a new application to the freeholders. We repelled this defence. *2do*, Answered, that he has no right to the annuity in the retour, and the old extent cannot be divided. Replied, The retour sufficiently divides them, for an annuity always *valet seipsum*, and can be valued no more, so the lands are clearly nine merks. They also alleged that Gask comprehended sundry other lands, and they could not then be nine merk of old extent when they are but L.300 valuation, but could not condescend on the lands. The Court was much divided, but it carried to sustain the complaint. (See DICT. No. 36. p. 8619.)