

No 79.

It would, on the contrary, be extremely irregular and unwarranted, to hunt after every gratuity or grassum which had been paid by a tenant. If, indeed, it appeared that the old rent had been lowered in consideration of a grassum, or that the grassum was extremely exorbitant, compared with the permanent rent, there might be some shadow for an objection of this kind; but, here, the whole is a grassum of L. 100 for a nineteen years tack, with a rent of about L. 32 Sterling. In such a case, it would have been very exceptionable, if the Commissioners had paid any regard to any thing except the real permanent rent payable by the tenant. In the cases from the county of Forfar, there was some argument upon this point in the division of Lord Panmure's valuation; but the Court paid no regard to the objection, although much stronger in that than in this case. And, indeed, unless there is something very extraordinary in the nature of the grassum, compared with the rent, it would be productive of very great uncertainty and confusion, if the Court were to pay regard to such casual circumstances.

THE COURT "repelled this, as well as all the other objections to the decree of division, and ordered the complainers to be put upon the roll."

Act. Solicitor Dundas.

Alt. Rae.

Fac. Col. No 135. p. 358.

No 80.

1780. July 25.

FERGUSON *against* SHAW STEWART.

AN erroneous division of a *cumulo* valuation having been acquiesced in for 20 years, and the land-tax paid according to it, the LORDS dismissed a complaint against an enrolment made on the ground of that error.—See APPENDIX.

Fol. Dic. v. 3. p. 309.

1780. December 6.

MONTGOMERY-CUNNINGHAM *against* HAMILTON.

No 81.

IN the division of a valuation, all parties who have interest ought either to concur, or to be called as parties. But this rule is not enforced with rigour. The Court will not sustain the simple objection made by a freeholder or commissioner, that he has not been called as a party, unless he can likewise show that the division is materially wrong; for, unless a division be faulty, no person can properly be said to have any interest in challenging it. See APPENDIX.

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