

enrolment of a liferent-voter in 1766, which bore production of that very charter; and even an extract of his Lordship's sasine, produced by his opponent in support of another objection, certified, that a charter, complete in all its parts, was exhibited at taking the infestment. This was as strong a case as could well be figured, as the verity of the sasine could hardly be questioned by him who had produced it in support of an objection. Still, however, as law requires a charter to be produced as a claimant's title before the freeholders, none of these adminicles, or extraneous proofs, which have been mentioned, will supply its place, however decisive they might, and certainly would be, in an action of proving the tenor*. See APPENDIX.

No 232.

Fol. Dic. v. 3. p. 431. Supplement to Wight, p. 65.

1790. December 18. SIBBALD against DOUGLAS and KERR.

MR SIBBALD had purchased, at a judicial sale, lands which were there described as holding of the Crown. Having claimed on them at the election-meeting 1790, it was *objected*, that the lands held of the family of Lothian, and that the Crown-charter had therefore been improperly obtained. Two freeholders present, substitutes of entail to the superior, declared that they meant to bring a reduction of the charter upon that ground; and one of these substitutes, and another freeholder likewise present, declared that it consisted with their knowledge, that the lands had till very lately been held of that family. A majority of freeholders, upon this evidence, rejected the claim; but the Court of Session, on advising a complaint, with answers, found they had done wrong, and gave expenses to Mr Sibbald, though the summons of reduction was raised and executed before advising the complaint. See APPENDIX.

Fol. Dic. v. 3. p. 431. Supplement to Wight, p. 62.

* There is one inconvenience resulting from the doctrine, that an extract of a charter cannot supply the place of the original. In consequence of the statute 1672, there can be no proper extract taken from the office of the Great Seal, where the ultimate step is taken, as it is not a proper place of record. The books are never given up by the keepers or their representatives to their successors in office, nor transmitted to the general register-house, under the charge of the Lord Register and his deputies, along with the other public records of the kingdom, and the records of Chancery in particular; from which extracts are daily taken, signed by a principal Clerk of Session. It must often be very difficult, therefore, to get at the books of the Great Seal, at least if far back. Indeed it is said, that no other books are kept by those officers, except a minute-book, and copies of the charters as sent by the writers to the signet, along with the principal charters for sealing. In these circumstances, there can be no remedy but that of proving the tenor. This evil seems to require a cure, by appointing a proper record at the Great Seal-office, or otherwise.

No 233.