the valuation the rule, *nem. con.*—but some of us *inter quos ego* had not seen the memorials, at least those for Littlegill, till the cause was called.

No. 6. 1748, June 2. DAVIDSON *against* KERR.

THESE two heritors had some lands runridge and others possessed as commonty, and both willing to divide, but could not agree on the plan. Kerr pursued a division before the Sheriff, but Davidson offered a bill of advocation, because though by the 23d act 1695 the Sheriff may divide runridge, yet by the 28th act 1695, the power of dividing commonty is only committed to the Court of Session. Haining refused the advocation; but on a reclaiming bill we remitted to him to pass it;—but resolved when it came in, with a new summons of division that Davidson has raised, to remit to the Sheriff as usual to make the division, but to be reported to us.

No. 7. 1748, June 3. SIR GEORGE STEWART *against* M'KENZIE.

AFTER a hearing in presence upon the import of the act 1695, act 28th, anent commonties, though we would not alter the judgment given in the case of Sir Robert Stewart of Tullicoultry, February 1740, that where there is only one proprietor and several servitudes, there lay no process of division on the act, yet we found that where there was a property in one and a servitude in another, but the proprietor has also a right of pasturage for a part of his lands, that there the superficies may be divided betwixt them in proportion to their respective interests in that superficies, the property still remaining as it was and no *præcipuum*, and the division to be not according to the valuation but according to their rights of pasturage.

No. 8. 1752, Dec. 15. MRS BALFOUR *against* MONCRIEFF, &c.

IN a process of division of the commonty of Auchtermuchty, the Barony of Strathmiglo being by the Crown's charter 1684 conveyed (all except eight acres of it) *cum potestate et privilegio communitatis et pasturæ* in that commonty, Mrs Balfour claimed a proportion of it corresponding to the valuation of the Barony, whereas the other heritors contended, that as by the proof only the lands of Demperston had possessed that common pasturage, the valuation only of these lands and not of the whole Barony could be computed. The Lords remitted to me to hear the lawyers on that point, and I this day reported it,—and we unanimously found, that only the valuation of the lands of Demperston ought to be computed and not of the whole,—and that in these divisions it made no alteration whether any of the parties' lands were erected into Baronies or not. The lawyers on both sides seemed to agree in making this a common property, but the Court seemed to think it only a servitude, but had no occasion of deciding that point.

COMMUNION-ELEMENTS.

No. 1. 1742, June 9. HERITORS of STRATHMIGLO *against* GILLESPIE.

THE Lords adhered to their former interlocutor refusing an advocation from the Sheriff of a process at the heritors instance against Mr Gillespie, for the communion-element

money of all years since his admission wherein he had not administered the sacrament, and wherein the Sheriff had ordained the Minister to give a condescendence of the years wherein he had administered the same.

COMMUNITY.

No. 1. 1736, July 13. ANDERSON *against* CAMPBELL.

THE Lords find the letters orderly proceeded reponing Campbell to his Deaconry, but suspended *simpliciter* as to the fines and damages. They thought the Conveners meeting though not properly a Court having jurisdiction, yet may in the first instance judge of the Deacon's rights *ad effectum* to judge whether he ought to be admitted into the meeting, but subject to the review of the Magistrates, some of whose number are composed of Deacons, and who are the King's Bailies.—31st July The Lords adhered.

No. 2. 1740, June 7, 17. MITCHELSON, &c. *against* M'KENZIE, &c.

I HARDLY thought this case worth marking, however as the case may be general, I now mark it; and the Lords were all of opinion, (except Dun) that a member of a Corporation giving over his employment and not keeping shop does not deprive him of his Corporation-privileges or right of voting at meeting if he resides within the town.—N. B. Here there were properly no Corporation-dues or burdens. 2dly, They thought the offices of M'Kenzie and Lesly, that is Keeper of the Parliament House and Macer of Justiciary not incompatible with their offices as Goldsmiths;—therefore they adhered to their former interlocutor of the 4th instant, but prejudice to the chargers the Goldsmiths to insist upon their by-law for penalties incurred through not attendance, and the whole effects thereof as accords.

No. 3. 1740, July 8. DR GLEN, &c. *against* DEACON CUNNINGHAM.

THE Lords adhered to Drummore's interlocutor, finding that William Mitchell's office as surgeon to the poor falls under the description of the decreet-arbitral, and that therefore he could not vote at the election.

No. 4. 1743, June 3. BAXTERS of EDINBURGH *against* SHIELLS.

WE seemed to agree that we were not to meddle with the Incorporations management of their own affairs,—but we all doubted whether the Corporation could bind each individual to employ any other than they please. But the doubt was, whether that could be determined by passing this bill, and whether a suspension of the Corporation-act could pass after it was executed by a contract in terms of it. But it carried to pass in so far as it might affect Mr Shiells or the other persons adhering to him to be named.—*Renit.* ——, Dun *et me.*