

1741. *February 19.* ELECTION OF CAITHNESS.

IN a reduction of enrollments at a Michaelmas meeting on this ground, that it was an unlawful meeting held upon a wrong day, and not by freeholders upon the roll;—found that there was no necessity of calling the persons enrolled at that meeting, and that the not calling them was no nullity in the process, as had been formerly also found in 1734 in the case of the Freeholders of Linlithgow.

No. 6.

1741. *February 17.* CASE OF SUTHERLANDSHIRE.

IN the case of the Shire of Sutherland many particular questions and objections were decided not worth inserting here; but the most material were; *1mo*, Though a Michaelmas meeting of freeholders cannot sustain an objection that had been overruled by a former meeting, yet that they may appoint a diet for the parties attending this Court for a decision, was the opinion of several, but no occasion to decide it. *2do*, Sir John Gordon's being declared infamous by this Court, in terms of the act 1621 anent fraudulent bankruptcy, was found no sufficient objection to his voting or being enrolled. *3tio*, It was generally thought, but not determined, that a freeholder whose estate is sequestrated at the suit of creditors, may vote and be enrolled. *4to*, Though a Michaelmas Court ought not to turn a man out of the roll on an objection to his titles without giving him an opportunity of producing them; yet Gordon of Delpholly being turned out on an objection that he was not infest, we found that he ought not to be reponed, since he does not now produce an infestment. *5to*, Found that purchasers may be added to the roll at these Michaelmas meetings, (contrary to the above case of Berwickshire, No. 2.) This last found by the President's casting vote. *6to*, That in complaints for refusing to put on the roll, as well as in complaints for wrongously enrolling founded on the act 1681; it is not necessary to call all the freeholders standing on the roll, but only the parties contraverting ought to be called in terms of that act; though in declarators founded on the common law, one could not declare his right to be enrolled without calling all freeholders on the roll, because they all have interest. And *7mo*, Found that in this shire all heritors and wadsetters, whether holding of the Crown, or Crown's vassals, or of sub-vassals, have right to

No. 7.

- No. 7. vote without regard to their old extent or valuation. The Lords ordered the Sheriff-clerk to insert in the Sheriff books the roll as amended by these several interlocutors. *Vide inter eosdem*, 28th July 1741, *infra*. *Vide* Case of Dumfries, No. 4.
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1741. *February 25.* ELECTION OF TWEEDALE.

No. 8.

SUMMARY complaint against the proceedings of the Michaelmas meeting not competent, where neither the meeting was required to appoint a day for the parties to attend this Court, nor any intimation made to them that the complainers were to apply to this Court, nor instruments taken upon the objections at the meeting.

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1741. *July 15.*

ELECTION of the DISTRICT of PEEBLES.—M'KIE of Palgowan *against* M'EWAN.

No. 9.

No action lies on the act 7th Geo. II. for a double return. In this case we inclined to think we might proceed, though the House of Commons had not yet judged of the Election. See No. 13.

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1741. *July 17.*

ELECTION of KINROSS.—BRUCE of Kennet, *Supplicans*.

No. 10.

THE Lords refused to judge of a complaint of the clerk to the election of Kinross and of the Michaelmas meetings there, that he would not give an extract of the minutes.

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1741. *July 28.*

CASE of SUTHERLANDSHIRE.

No. 11.

THE defenders here waved the dilatory defence, that the House of Commons had not yet judged of the election, and the question turned on the meetings having adjourned, whether that was lawful? and it seemed to be the opinion of the Court that it was not; but as that could not affect the clerk or Sheriff, a new allegation was made of a previous concert to waste the time in order to adjourn, and that they were in the concert, whereof a proof was allowed. *Vide inter eosdem*, No. 7.