

payment was in like manner applied to this arrear 1739, and so forward till this year 1742,—when the Commissioners of Supply of this year, who were all different from the Commissioners 1739 except one or two, directed quartering upon Southdun the Collector of 1739 for this arrear, though Southdun had truly paid up the whole sums by him collected; and having applied to the Commissioners of the year 1739, and got an order discharging quartering, which the party would not obey,—on these grounds he presented a bill of suspension; and in particular that these Commissioners were not Commissioners of the year 1739, and therefore on account of the prohibition in the Cess-acts, that we should not stop the levying the Cess imposed by the Commissioners therein named, Kilkerran Ordinary refused the bill,—and on a reclaiming bill without answers we adhered. I own I was diffculted, but what determined the Court was, that this quartering was ordered as for the Cess 1742, and whether justly or unjustly we could not stop them.—22d December Adhered and refused a bill without answers.—*Vide* the bill.

No. 4. 1744, Feb. 17. TOWN of KIRKWALL *against* INHABITANTS of STROMNESS.

WE found that the Town of Kirkwall could not tax the inhabitants of Stromness lying at 12 miles distance, and outwith their jurisdiction, for any part of the Cess of the Town, not even those who were Burgesses of the Town but did not trade in it. *Vide* 6th Junc.

The principal cause being determined against the Town of Kirkwall 17th February last, Balmerino found the Town liable in the expenses of extracting the decret, which we this day altered, and found no expenses due because of the Town's immemorial possession. And Arniston observed, that had he been here he would have differed from the interlocutor *in causa* on the supposition of immemorial possession, because of the terms of the articles of Union concerning the Cess.

No. 5. 1751, Feb. 12. GORDON *against* GORDON.

See Note of No. 53. *voce* MEMBER OF PARLIAMENT.

No. 6. 1753, Aug. 3. SUTHERLAND of Swinzie *against* SUTHERLAND.

See Note of No. 58. *voce* MEMBER OF PARLIAMENT.

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COMMONTY.

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No. 1. 1738, Nov. 17, 24. TENNANT *against* MURRAY.

ARNISTON doubted whether any process of divison was competent after the contract 1663; 2dly, He thought if such process were competent, that the division behoved to be according to the rule in the statute 1695, and not the interests settled by the interlocutor. But the Lords by a great majority were of a different opinion in both points, and refused