

23d, As to the class of persons refused to be admitted to the roll, the objection was made, that all pursuers having interest were not called; *i. e.* several freeholders upon the roll. I had before, in another question, given my opinion, founded, as I thought, upon the words of the act 1681, that only the parties contraverting, *i. e.* objecting, ought to be called,—and then both Arniston and the President distinguished, when the complaint was that one was wrongously added to the roll, then he only needs be called, because he alone is interested; but when the complaint is that one is wrongously refused to be put on the roll, then all the freeholders have an interest, and ought to be called. Here Arniston thought the objection not competent, because it was waved on Tuesday in the case Delquholly. Most of us differed from him, because they might wave as to one, and insist on it as to another, and the objection might be made in name of any of the freeholders not called; but I still doubted of the relevancy of the objection, upon which Arniston distinguished away his own distinction, and said, that were the process a declarator, all the freeholders behoved to be called, that is all on the roll; but where it was, as in this case, a complaint that the Michaelmas court had not appointed a diet, though required, and therefore had intimated to them to attend this court, founded on the act of Parliament, then only the persons objecting needed be called,—and indeed I agreed to the distinction so limited; and accordingly it carried to repel the objection. *Sed renit.* President.

6thly, February 6.—The next question came as to persons added to the roll, as was said unduly, and others refused to be admitted,—when we were obliged again to determine the general point, determined in the case in Berwickshire, 5th December, (No. 2.) when Royston and Haining were both absent sick, when we altered the former judgment, and found by the President's casting vote that purchasers may be added at the Michaelmas meeting.—*N. B.* Strichen did not vote. 12th February, Found that heritors and wadsetters, though holding of subject superiors not holding of the Crown, are entitled to vote. 13th, Found the nine ought to be enrolled, and repelled the objection to the eleven enrolled. 25th February, Adhered without answers. *Vide* 25th February, (No. 8.)

No. 8. 1741, Feb. 25. ELECTION OF TWEDDALE.

THE Lords found, that there being no requisition to the freeholders to indite a time for attending this court, nor intimation that the petitioners were to apply, nor no protest taken on the objection, that this summary application was not competent. 27th February Adhered without answers.

No. 9. 1741, July 15. ELECTION OF THE DISTRICT OF PEEBLES.—
M'KIE of Palgowan *against* M'EWAN.

THE question was, Whether this action for a double return lies upon the statute, 7th Geo. ? and found that it does not lie. Against judgment were President, Drummore, Balmerino, Murkle, Arniston.—For judgment were, Justice-Clerk, Minto, Haining, Kilkerran, Ilay, Monzie, *et ego.*