the substitution still subsisted, because she died before one of the events, marriage. But we altered, and thought the particle OR was meant here conjunctive, and that marriage alone would have put an end to the substitution, though not major, and therefore so should majority, though not married;—and considering the manner of the Earl of Home's signing the contract of marriage and separate assignation, found that he was not barred from quarrelling the Lady's right to the half of her sister's portion. 1st December Adhered to the first point, and 11th February 1748 adhered to the last.—(17th November 1747.)

COMMISSIONERS OF SUPPLY.

No. 1. 1735, July 25. HEPBURN of Monkrigg *against* HAY of Hopes.

THE Lords found, that one infeft in superiority might act as Commissioner of Supply, thought that superiority was valued in the tax-roll only at L.40, provided the property was valued at L.100, the sum the act limits; whereby lands valued at only L.100 may give a good title to both superior and vassal, where both happen to be named Commissioners. But found, that where lands are not separately valued but are parts of a Barony that is valued *in cumulo*, the superior or proprietor cannot act as a Commissioner until they be separately valued,—and therefore sustained the objection to Mr Hugh Dalrymple's vote. They also found, that in this suspension, which is a competition for the immediate possession, a term should be allowed for proving a voter's qualification, and therefore disallowed Sir John Sinclair's vote;—and they found that a minor could not act as Commissioner of Supply, and therefore rejected Mr Dalrymple Stair's vote, the objection being instantly proved by Lord Drummore his father,—and in this last question they found that Lord Drummore could not vote. They repelled the objection to Mr John Armour of the wrong spelling his title, and found that Brinkers, Fallahill, and young Preston's votes were good.

No. 2. 1742, July 30. ELECTION of CLERK of SUPPLY of BANFFSHIRE.

ONE of these Clerks having presented a bill of suspension of the election of the other, which the Ordinary refused;—on a reclaiming bill and answers, we found that the right of this election could not be tried by suspension, reserving reduction as accords,—and the reason was, that the necessary parties were not in the field, *i. e.* the electors.

No. 3. 1742, Dec. 8. SINCLAIR *against* COMMISSIONERS OF SUPPLY of CAITHNESS.

SINCLAIR of Southdun was Collector of Cess from 1731 to 1739 inclusive,—and as there was an arrear due by the County of 1000 merks or thereby of the preceding year, the like arrear of course remained in 1739 when he left the office, because the Receiver-General always imputes payment to the oldest arrears;—and the preceding Collector's first

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 difficulted, 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 June.

The principal cause being determined against the Town of Kirkwall 17th February last, Balmerino found the Town liable in the expenses of extracting the decreet, 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.

COMMONTY.

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