showed the proceedings upon which the petitioner was refused to be enrolled, and whereby it appeared, that the petitioner's lands, under which he claimed, called Doul, remained extended jointly with other lands then belonging to the same heritor, to L.4 old extent as late as 1613, as appeared by the tax roll of that year, which was an evidence that there had been no lawful division before that time, and consequently that Doul was not a 40 shilling land at the date of the charters 1602 and 1609. 2dly, That by the valuation book, these other lands jointly extended with Doul in the 1613 stand valued in the revaluation of that shire at L.639, whereas these lands of Doul, joined with the petitioner's father's lands of Balbougie, which last are L.4 land, are valued at L.535, and consequently, were there a division of the old extent of these other lands from Doul, the lands of Doul could hardly be L.1 land; and though it was said for the petitioner, that the reason of the high valuation of these other lands was, that the proprietor had purchased other lands that now went under the same name, and were jointly valued with them, yet that still rendered it the more doubtful what the old extent of them was, and consequently what was the old extent of Doul;—and therefore we found, that the petitioner had brought no sufficient evidence of the old extent of his lands of Doul, and refused his petition. 21st January The Lords adhered, and refused without answers. *Renit.* President.—But Arniston argued strongly for the judgment.

No. 18. 1742, Jan. 21. LORD ROYSTON, Liferenter, and CAPTAIN M'KENZIE, his Son, Fiar,—Ross-shire.

THE question was, Whether Royston, being upon the roll, his son Captain M'Kenzie could also be enrolled as fiar, so as to vote when his father shall not claim?—and the Lords found that both might be enrolled at the same time, but with a *proviso* and quality to Captain M'Kenzie, that he shall have no vote at meetings for elections, or making up of rolls, but when the father is not present or does not claim a vote at such meeting.

No. 19. 1743, June 28. FREEHOLDERS OF EDINBURGH, *Supplicants.*

THE question was on the construction of the last act of Parliament, Whether we could receive a complaint against persons standing upon the roll till after Michaelmas next? and without a vote we agreed we could, *sed renitente* President.

No. 20. 1743, July 20. LORD ROYSTOUN'S COMPLAINT.

ROYSTON complained that the last Michaelmas court in his absence and without any notice given him to produce his writs had expunged him out of the roll, on which he had stood from 1708, against which Lord Fortrose had protested and required the meeting to attend this court 15th January last for a determination, and therefore praying redress. We then allowed him to serve the parties concerned with a copy, and he served the person who in the minutes had objected, and the President of the meeting, who put in answers, and parties being heard, we found that this complaint was competent notwithstanding the late act concerning elections, (*quibusdam renit. inter quos* President, as I thought,

et me.) 2dly, We found it competent, though Royston was not there to object to the judgment, and that Fortrose who did protest was not a petitioner, in respect of the minutes agreeing in effect to answer Royston if he should complain. 3dly, We sustained it, though only the person objecting and the President were served with a copy, as we did formerly in the case of the Shire of Sutherland. 4thly, We found the proceedings of the meeting as to Royston void and null, and ordered him to be reponed to the roll, and would not even hear the defenders to show cause why he should not be upon the roll.

No. 21. 1744, Feb. 9. SIR JAMES STEWART *against* LORD ARNISTON, &c.

THE President gave his opinion in strong terms that this was no roll in terms of the act 1681, nor such as was intended by the late act 16th Geo. II.; and 2dly, that the complainer was not on that roll; and 3dly, that the defence was good that the point was determined before the freeholders. Dun was of the same opinion. Royston thought that this was the roll to be called; 2dly, he thought the complainer was upon the roll. He thought also the third defence not good, because they did not find that the complainer was not to be called but that the roll was not to be called, and therefore was for the complaint. Justice-Clerk thought this was the roll. To the second, that the dubiety was sufficient to excuse them from the penalty, and he thought the third defence good. Minto thought the second defence good. Balmerino thought this was the roll referred to in the act. To the second, he thought the complainer was on the roll, but thought the third defence good. Monzie thought this the roll referred in the last act. To the second, thought it doubtful and therefore was for the defence. To the third was also for sustaining it. Haining thought this was the roll, and I think was for repelling all. Strichen thought this was the roll referred to in the act 16th Geo. II. To the second he thought the defence good, and also the third. I thought this was the roll to be called, but that he was not bound to call dead men, but I thought the other defence good. Murkle thought this not the roll, and also thought the other two defences good,—and with him agreed Leven.

No. 22. 1745, Jan. 18. CASE OF RENFREWSHIRE.

ON report of Arniston, found that a retour reciting sundry particular lands and the old extent thereof severally in the descriptive clause, and the *valen.* clause, valuing the haill *in cumulo* to a certain sum, but agreeing with the particulars when summed up,—found I say that that was a sufficient voucher of the old extent of the lands as rated severally in the descriptive clause. Another retour of a wadsetter in the lands of Ellerslie which held blench of the reverser for a penny and the non-entries discharged, this retour in the descriptive clause calls it the L.5 land of old extent, but in the *valen.* clause it is valued to one penny both *tempore pacis*, and now that the non-entry duties were discharged. In support of it they also produced a charter designing them at L.5 land, and appealed to a roll in Exchequer, but which is said to be only a copy. But the Court thought that by the act 1743 no other proof of old extent could be admitted but a retour before 1681, and therefore 19th January (to which they took it to advise) they sustained the objection. *Vide* 22d February, (No. 35.)