

MEMBER OF PARLIAMENT.

No. 1. 1738, Feb. 23. ROBERT ROSS, *Supplicant*.

EARL LEVEN, Ordinary on the bills, reported a bill by this Robert Ross for a warrant to the Chancery to issue a commission to the Sheriff to take trial by an inquest for dividing the old and new extent of a large barony, whereof the petitioner has right to only a part, and to ascertain his part of the said extents,—and the bill gave us some ancient precedents from the records of Chancery of commissions issued out by authority of this Court, and retours made upon them. The Lords unanimously passed the bill, and indeed this seems to be the only distinct legal method to divide and ascertain these extents.

No. 2. 1740, Dec. 5. ELECTION OF BERWICKSHIRE AND OF THE MEARNES.

ON these two petitions with the answers to them concerning the proceedings of their last respective Michaelmas head courts, several of the Court being of opinion that these Michaelmas courts were superseded and the powers taken away by the act 12th *Annæ*, notwithstanding of the judgment of this Court in January and February 1734, Dundas of that Ilk against Sharp of Hoddam and other Freeholders of Linlithgow, (not indeed marked by me in this book, but the papers bound in that year's papers letter D,) finding by the last interlocutor that the act 1681 was still in force both for deleting and adding to the rolls; they agreed to hear that point on occasion of these two petitions on Tuesday last, and the hearing lasted Tuesday and yesterday,—when we found that notwithstanding the said act 12th *Annæ* the Michaelmas head courts can still make alterations in their roll of freeholders,—carried by the President's casting vote. *Pro* were Justice-Clerk, Drummore, Kilkerran, Balmerino, Monzie, Leven, and I. *Con.* were Royston, Minto, Haining, Arniston, Tinwald, Dun, Murkle. I had declared my opinion that they could delete, and that they could add only apparent-heirs and husbands in the right of their wives, because of the *proviso* in their favour in the act 12th *Annæ*. But all the rest who spoke of either side were either of opinion that they could neither delete nor add, or that they could not only delete but add both apparent-heirs and husbands and even purchasers. But the Court being much fatigued, the particulars of their power were put off till this day, when such as spoke gave their opinions much in the same way as the day before; only the President explained his, that though he thought new purchasers might be enrolled at Michaelmas, and in consequence of that enrolment they could vote in chusing Preses and Clerk, yet they could not vote in constituting the roll or the election of the member, or any other question, till they had produced their rights in terms of the act 12th *Annæ*;—but I did not observe that any body joined him, such as spoke on that side giving their opinion, that these new purchasers could vote in every step till the election of the member or till they were turned out. But when it came to the question, an objection was made to our powers of judging in these questions, though the preceding day's judgment plainly supposed it. However that previous question was put and it carried by a