

No. 32. 1745, Feb. 12. CASE FROM ABERDEENSHIRE.

ON a complaint Lord Braco, &c. against certain freeholders in Aberdeenshire, the like question occurred as we decided 19th December 1740, (No. 5.) betwixt Sir James Carnegie against the Freeholders of Mearns, Whether vassals of forfeiting persons who now hold of the Crown but took not the benefit of the Clan act, and therefore their superiority may still be sold, I say, whether they are entitled to continue on the roll while they so hold of the Crown, agreeably to 25th act Parl. 6th, Jas. II. ? And we found they were.

No. 33. 1745, Jan. 25, Feb. 13. CASE OF GIBSON,—TWEDDALE.

A COMPLAINT on the late act was given in against sundry as not having right to be on the roll, and among the rest against Thomas Gibson of Boreland, and accordingly warrant was granted and executed ; but when they came to insist, they insisted against George Gibson who alone was on the roll, and not Thomas. We first found it not competent to insist against George. Now they reclaimed, and we appointed it to be seen, and the petition and answers came to be advised February 13, when we adhered.

No. 34. 1745, Feb. 22. CULCAIRN'S CASE,—ROSS-SHIRE.

THE Lords repelled an objection to Culcain's vote that it was a right redeemable by Sir Robert Monro for 100 merks, and there was no clause of requisition and therefore was no proper wadset.

No. 35. 1745, Feb. 22. HUGH CRAWFURD'S CASE.

THIS is the same case as is mentioned 18th January last, (No. 22.) Mr Crawford having reclaimed against Arniston's interlocutor given by our direction, the Lords adhered, and found he had no vote ;—and we pronounced the like interlocutor the same day in the case of Andrew Campbell in the same shire, and rejected his vote, *renit.* Drummore, Kilkerran, Dun, Balmerino.

No. 36. 1745, Feb. 26. CASE OF BUDGE,—CAITHNESS-SHIRE.

BUDGE of Toftingall's right was quarrelled, which was an infestment in lands that formerly held of the hospital of St Magnus and Toftingall, purchased from Ulbster, as deriving right from Earl of Breadalbane, the superiority and the patronage of the hospital so far as concerned the superiority of these lands. We had great doubt of the right of superiority whether the patronage would carry it, but I observed that if the person is infest and in possession we cannot enquire into the preference of another ; and we repelled the objection, *renit. tantum* Justice-Clerk, and Minto.

No. 37. 1745, Feb. 26. LORD DRUMMORE'S CASE.

LORD DRUMMORE'S vote was objected to as to that part of his lands which had been purchased from Prestongrange, and a voluntary division made by them of the valuation, at which

rate it was inserted in the Cess books by orders of the Commissioners of Supply, without any evidence that the division was equal. Answered, That by comparing the rental at which Drummore bought with the rental of the remainder and the valuation of the whole lands, it would appear that the division was equal; but that we could make no enquiry. It was sufficient that the Commissioners had so valued it. The question was, Whether we should enquire into the equality of the division or not? and it carried, not, *renit. inter alios* President, *et me*,—and it was admitted that the Commissioners are not in use to enquire into the equality where parties make a division among themselves.

No. 38. 1745, July 10. CASE OF MR GEORGE SKENE,—ABERDEENSHIRE.

THE case of Mr George Skene was that he had lands in property valued so much, and also a separate fishing valued at so much, amounting both to above L.400, so the question was, Whether this fishing could give right to vote? Found that it did.

No. 39. 1745, July 10. CASE OF DUNBARTONSHIRE.

WE gave the same judgment (as above) in the case of Campbell of Succoth, who had a salmon fishing separately extended to two merks old extent in the Earl of Marr's retour in 1635.

No. 40. 1745, July 18. MONRO OF CULCAIRN'S CASE.

A WADSET to him by his father, of a superiority that yielded about L.26 yearly, redeemable for 1000 merks, but not reciting any sum given or borrowed, and without any clause of requisition, was found to be a good title to vote.

No. 41. 1745, July 28. CASE OF CHALMERS OF BALNACRAIG,—ABERDEENSHIRE.

CHALMERS of Balnacraig produced a retour in certain lands in 1739, valuing them to L.3 old extent, and L.12 new, with two retours in lands of the same name, and retouring them to the same extent, one in 1563, and another in 1574; but then there was a retour in lands of the same name, and in the same family, in 1680, extending them to half a merk old extent, and two merks new extent. The question was, whether he had a title to vote? I doubted not that in 1563 and 1574 the family had a good vote; but then I could not suppose that the inquest 1680 retoured without any evidence at all restricting the old and new extent, though it does not now appear how that restriction came, whether by sale of part of the lands, or otherwise, whereas the inquest 1739 behoved to retour in terms of the old retours 1563 and 1574, if the retour 1680 was not laid before them. But the rest were unanimously of a different opinion, and repelled the objection. 28th July, Adhered.