

No. 42. 1745, July 30. SIR ROBERT MONRO *against* M^cKENZIE, &c.—
ROSS-SHIRE.

THE first question was, Whether vassals of the Earldom of Ross, and Lordships of Ardmnach, could vote because of the act of James III. and James VI.; and 2dly, that some of them formerly held of the family of Seaforth; and both superior and vassal were forfeited; and though the vassals purchased their own predecessors estates, yet they did not purchase their superiors estate? We repelled the objection, both because the act of Parliament did not upon the existence of a second son *eo ipso* vest the right in him, and because the respondents were infest, and in possession held of the Crown, in terms of the act 1681.

No. 43. 1746, June 6. SIR MICHAEL STEWART *against* THE TOWN OF
PAISLEY.

THE Lords found the execution against two Bailies was no citation of the burgh, and refused the new execution, because not within the times limited in our act of sederunt, which hindered us from entering into the question, whether communities can vote by a delegate,—but most of us seemed to think they cannot.

No. 44. 1746, June 4, 14. ROBERT CLELAND'S CASE.—LINLITHGOWSHIRE.

CLELAND produced a retour in 1662, *septem bovatarum terrarum de Wester Kincavill*, bearing that *valent L.7. 6s. 8d. nunc, et tantum valuerunt tempore pacis*, and that they hold of the Crown free for payment of L.7 of feu duty, as a proportion of L.26, payable for the whole lands of Kincavill by the ancient infestments, with 6s. 8d. *in augmentationem rentalis pro predictis 7 bovatis terrarum*. The question was, Whether this was evidence of L.7. 6s. 8d. of old extent? which resolved in two questions, 1st, Whether the clause in the act 1681 (distinct from the feu-duties) is repealed by the last act in 1743? 2dly, Whether this appeared to be old extent, distinct from the feu-duty? for which last, the chief argument was, that the retour bore the feu-duty originally to have been only L.7, and the 6s. 8d. was an augmentation, whereas the old extent was always L.7. 6s. 8d. Arniston argued long for the vote, particularly that the act 1743 implied that every person producing a retour, bearing the lands to be 40 shillings, must have a vote. The Lords repelled the objection; and sustained the vote. *Pro* were, Drummore, Haining, Arniston, Dun, Balmerino, Murkle. *Con.* were, Justice-Clerk, Minto, Tinwald, *et ego*. Strichen *non liquet*.—4th June 1745. Altered, 4th June 1746, and sustained the objection. 14th June, Adhered.

* * * The case of M^cCara, 24th June 1747, here referred to, is mentioned as follows:

M^cCara's grandfather was infest in 1648 on a retour in Johnston's fourth part of the lands of Drimmie, *valen. nunc per annum 51s. 10d. cum martis debitis et consuetis, et tempore pacis tantum, cum duplicatione dictæ summæ primo anno introitus, et quod tenetur de*