

No. 14.

to the former acts indeed; but it led me to imagine it was a different writing from the indenture returned by the Sheriff. However, I now find, that that writing that the Sheriff annexes to and returns with the writ, whatever be the form of it, is the very return that the clerk makes to him, and I doubt it is impossible that that can set forth the *res vere gesta*, or it would be a very improper return to the writ. The form of indenture seems taken from act 7th, *8vo* Henry VI. but ill adapted to the words of our acts, and yet the same words are continued in the act lately made, 16th Geo. II. *anno* 1743.

1741. *December* 18. ELECTION of the DISTRICT of BRECHIN.

No. 15.

THIS was a complaint against the clerk of a presiding burgh (Brechin) for a wilful false return in favour of John Maul, whose chief defence was, that the election depended on the vote of Brechin, and though the Magistrates in possession voted for Udney, yet the other Magistrates who voted for Mr Maul were the true and lawful Magistrates, and so declared by a decree of this Court in a few days after the return in a process that depended long before the election. Several Lords thought, that though Mr Maul had the right of election, yet Udney had the right of return; yet they assoilzied the defender.

1742. *January* 21.

CUNNINGHAM of Comry *against* LORD GEORGE MURRAY.

No. 16.

FOUND that no complaint lies against only two freeholders that they would not constitute themselves into a meeting to revise the rolls. The complainers right here depends on the question, whether church-lands that pursuant to the acts of Parliament 1594 and 1597 were retoured in 1598 to a 40 shilling land, did entitle to a vote. *Vide* the papers with some notes on the petition.

1742. *January* 21.

CUNNINGHAM, Younger of Balbougie, *against* The FREEHOLDERS of FIFESHIRE.

No. 17.

ONLY five freeholders in Fifeshire having constituted themselves into a meeting for revising rolls, a complaint against them for refusing to enrol a free-

holder was found competent. His claim was as a 40 shilling land of old extent which he proved by charters and precepts of *clare* from subject-superiors in 1602 and 1609; but it appearing that in 1613, after two of these writs, these lands were extended jointly with other lands to L.4, so that there had been then no division nor separate extent;—that was found no sufficient evidence of the old extent, and the complaint was refused.

No. 17.

1742. *January 26.*

LORD ROYSTOUN, Liferenter, and CAPTAIN M'KENZIE, his SON, Fiar,—
Ross-shire.

No. 18.

ON a reference by this Michaelmas Court, agreeably to the act 1681, the Lords found that where there was a liferenter and fiar of the same lands, that both might be enrolled, but with a quality that the fiar shall have no vote at meetings for election or for making up the rolls, but when the liferenter is not present, or does not claim a vote at such meeting.

1743. *June 28.* FREEHOLDERS of EDINBURGH, *Supplicants.*

SOME doubted whether, on the late act (1743) anent elections, we could receive complaints concerning freeholders on the roll till after Michaelmas 1743, but we found we could,—without a vote.

No. 19.

1743. *July 20.* LORD ROYSTOUN'S COMPLAINT.

NOTWITHSTANDING the late act, (1743) we proceeded to judge of a complaint by Roystoun, of his being unduly turned out of the rolls at last Michaelmas in his absence. *2do*, We found the complaint competent, though no objection was made at the Michaelmas Court, because he was not present, and Fortrose, who only did object, was not now a complainer, in respect the meeting in their minutes in effect agreed to answer any such complaint. *3tio*, We found the complaint duly served, though it was only against the preses of the meeting and the person who objected to Roystoun's being on the roll. *4to*, We found the proceedings of the meeting void and null, and ordered him to be reponed, and would not hear the defenders to show cause why he ought not to be upon the roll. *Vide inter eosdem*

No. 20.

No. 18.