

In this last Arniston did not vote, but did vote in the rest on the side of the majority.—(N. B. Dun did not vote in any of the points.) They superseded another objection, that the persons who got the copies were not servants to the parties, till the messenger amend his execution.—6th February Adhered, and found the Deacon, not being a member of Council, need not be called.—(21st January.)

No. 16. 1741, Feb. 11. ELECTION of the TOWN of PERTH.

THE Lords having formerly found that Provost Craw, and his adherents, might as Councillors for the preceding year, carry on the reduction of Provost Ferguson's election, they this day found that the separation at this election was not in terms of the act 7th Geo. II. and before answer, allowed a proof of the unlawful combination. Arniston thought both elections null at common law, Fergusons because of the separation, and Provost Craw's for his refusing to put the questions mentioned in the minutes, though he thought the several members not bound to answer the queries there mentioned. I humbly differed,—I thought the Provost lawfully refused to put the question, when the decision, as was admitted, could not bind any of the Councillors; but as the eleven Merchant Councillors had plainly the right of election if no objection lay against them, therefore, that as the secession of the 15th Councillors was unlawful, so likewise their election was null, as it must have been had they staid. On the other hand, if such objection lay against the 11 as made them incapable, then the right of election was with the 3 Merchants and 12 Trades Councillors, and had they staid still, the election made by them must have been preferred; and if they, being in the knowledge of the unlawful combination, did therefore separate, I thought it would be too strong an effect given to that separation to void their election; and it was upon my saying so, the act was pronounced before answer; and they found, that the defenders might be adduced as witnesses against one another, but could not be examined on his own entering into the combination, without referring *simpliciter* to oath. 11th February Sustain the reason of reduction of Provost Ferguson's election, and those of his side, and reduce the election unanimously. 12th February Repelled the reasons of reduction of Provost Craw's election. *Pro* were President, Justice-Clerk, Minto, Strichen, and I. *Con.* were Drummore, Arniston, Dun, Balmerino, and Murkle. But Monzie did not vote in any of the questions, because of his relation to Provost Ferguson. This judgment, upon an appeal, was affirmed without a division.—(13th January.)

No. 17. 1741, Feb. 17. ELECTION of LOCHMABEN.

THE Lords found the act 7th Geo. II. extends to the conclusion of declarator, as well as of reduction of elections of Burghs. 2dly, That raising a summons within the eight weeks, without executing against the whole parties is not enough,—and refused the bill for Sir Robert Laurie, Lord Advocate, &c. without answers.—N. B. I was in the Outer-House.

No. 18. 1742, Nov. 30. TACKSMEN of EDIN. IMPOST *against* GILCHRIST.

UNANIMOUSLY find whatever is imported for sale is liable to the impost, to whomsoever it be sold.