

1752. June 30.

ANDERSON and Others, *against* The MAGISTRATES of RENFREW.

JOHN ANDERSON and others, burgesses of Renfrew, raised a reduction of a long lease of the common property, which the Magistrates and Town Council had granted.

The Magistrates and Town Council objected to the title of the pursuers, and *pleaded*, That private burgesses cannot compel their Magistrates to render account of their administration. The abuses which may prevail in the management of the patrimony of burghs, are to be corrected, not by a popular action, but by other methods which the law has appointed. Anciently these things were subjected to the control of the Chamberlain; by the 26th act, 4th Parl. Ja. V. the Magistrates of burghs were obliged to account for the common good yearly in Exchequer; and, by 28th act, 1693, it is declared, that it is the royal prerogative to oversee and control the management of the common good of burghs, and that the Crown will appoint for that purpose commissioners to be vested with the powers which were in the Exchequer. Such are the provisions made by the wisdom of the Legislature; and by these only is the administration of Magistrates to be examined, and their malversations corrected.

Answered for the pursuers, The purpose of this reduction is to enforce the observance of a public law, and to vindicate a right of pasturage which the pursuers have, by immemorial possession, acquired; and therefore the objection to the title must be repelled; more especially as in the case of Johnston *against* the Magistrates of Edinburgh 1735, the Lords found, that Johnston, *quid* burgess, had a sufficient title for carrying on a reduction of a feu granted by the Magistrates of Edinburgh of the mills belonging to that city.

The Lords found the pursuers had a sufficient title to carry on this process. *See* TITLE TO PURSUE.—JURISDICTION.

Reporter, Minto. Act. Lockhart. Alt. Advocatus. Clerk, Pringle.
D. Fol. Dic. v. 3. p. 142. Fac. Col. No 17. p. 37.

1794. January 16.

MATTHEW COMB and Others, *against* The MAGISTRATES of Edinburgh.

The Magistrates of Edinburgh, by an unprinted act, dated 13th June 1693, are authorised to levy a duty of two pennies Scots upon the pint of ale and beer to be brewed and in-brought, or vended, tapped, and sold within the said town, and suburbs and liberties thereof. This duty was to continue during the space of 15 years, and further during their Majesties pleasure, not ex-

No 33.

Private burgesses may pursue the Magistrates and Town Council of a royal burgh, to account for their administration of the common good. *See* No 21. p. 2515.

No 34.

An action of declarator and damages against the Magistrates of Edinburgh, sustained at the