

No 92.

1768. *March 11.* Hog of Newliston, Petitioner.

THERE being no convener of the Commissioners of Supply of a county, the LORDS ordained the last convener to call a meeting, the same being previously advertised. *See APPENDIX.*

*Fol. Dic. v. 3. p. 410.*

No 93.

1774. *June 21.* STEPHEN *against* ABERCROMBY.

AN order similar to that granted in the cause, Earl of Panmure, &c. against Commissioners of Supply of Forfarshire, No 90. p. 8675, was given upon the application of the Duke of Gordon, 18th December 1772, No 379. p. 7674. *voce* JURISDICTION, in consequence of which order, the Commissioners met on the day appointed, but the majority, after stating certain objections, protested against farther procedure. The minority, however, went on and made a division, and the Court of Session found they were authorised so to do, in respect of the refusal of the majority. *See APPENDIX.*

*Fol. Dic. v. 3. p. 411.*

No 94.

1775. *July 25.* JOHN M'ADAM and Others, *against* JAMES LOGAN.

A person acting as a commissioner of Supply, without a legal qualification in two instances at one meeting, liable only in one penalty. Where penalties are awarded, costs of suit not exigible.

UNDER the authority of the land-tax act of Parliament for the year 1775, M'Adam and others, heritors in the county of Ayr, preferred a complaint, stating, that James Logan, who has not a sufficient qualification, did assume the character of a Commissioner of Supply for the county of Ayr, at a meeting held in the month of April last; and did, upon that occasion, act in two different instances; *first*, in voting who should be clerk to the Commissioners of Supply; and *next*, in voting whether the salary of that office should be diminished; and concluding to find the complainers entitled to recover from him the penalty of L. 20 Sterling for each of the two several times that he illegally acted as a Commissioner of Supply, with costs of suit.

*Answered*; The respondent, who is possessed of a small property in the foresaid county, having been solicited by some of his friends for his vote in the election of a clerk to the Commissioners of Supply for this current year, he yielded to that solicitation, having been told, that if he had L. 20 of real rent he was equally well entitled as if he had L. 100 Scots of valued rent: And it is acknowledged, that he did unwarily attend the foresaid meeting upon the

29th of April last, and did vote in the two instances condescended upon in the complaint, although he is only possessed of L. 83 : 13 : 4 of valued rent : But this will not found the complainers in a claim for no less than L. 40 Sterling. It is submitted to the Court, if he might not maintain, that no more than one penalty can be exacted upon one conviction; at any rate, he can never be made liable for more than one penalty of L. 20 for his having acted at one meeting; and, indeed, the voting for the clerk, and the ascertaining the extent for the salary, cannot be considered in any other light than *partes ejusdem negotii*.

As to the demand for costs of suits, there is no foundation for it; the complainers must pay their expenses out of the penalty they recover.

“ THE COURT found the respondent liable only in one penalty, and no expenses due.”

Act. J. Borwell.

Alt. M. Queen.

Clerk, Tait.

Fol. Dic. v. 3. p. 410. Fac. Col. No 184. p. 107.

\* \* \* A different decision had been pronounced in 1766, Sir John Gordon against Forbes, also in Gordon against Forsyth, *see* APPENDIX.

1780. December 6. WILLIAM BROWN *against* JOHN HAMILTON.

BROWN having acquired right to certain lands in the county of Ayr, applied to the convener of the Commissioners of Supply, praying him to call a meeting, for the purpose of ascertaining their valuation. This the convener at first declined to do; but, afterwards, in answering a protest taken against him, he promised to advertise such a meeting, to be held on the 18th of October, *i. e.* two days after that appointed for the election of a Member of Parliament for the county.

Mr Brown concurred in a bill of advocation with some other gentlemen in similar circumstances; and the Lord Ordinary officiating on the bills, 7th October 1780, “ in respect there was not time for appointing the bill to be seen and answered in common form, refused to advocate;” but appointed the Commissioners of Supply, or any five of their number, to meet at Ayr on the 12th current, and to proceed directly to divide and ascertain the valuation of the lands belonging to the complainers. A quorum of the Commissioners accordingly met, and found it proved that the valuation of Mr Brown’s lands amounted to L. 471 : 5 : 2 Scots; which they ordered to be entered in the cess-books and certified by their clerk.

Mr Brown claimed to be enrolled at the meeting for election on the 16th; when it was *objected* by Mr Hamilton,

No 94.

No 95.

A party had obtained a division from a meeting of Commissioners, called by order of court in consequence of the convener’s refusal, but without intimation to the freeholders at large. Notwithstanding of an objection on this account, the party was ordered to be enrolled.