

No 3. appointed by act of Parliament, the Sheriff of the shire was the proper officer to appoint another diet for the Commissioners of Supply their first meeting. *See JURISDICTION.*

Fol. Dic. v. 1. p. 153.

No 4.

1735. July 25. HAY of Hopes *against* HEPBURN of Monkrig.

By act of Parliament, both superior and vassal have a right to vote for the same L. 100 valued rent. *See SUPERIOR and VASSAL.*

Fol. Dic. v. 1. p. 153.

1751. February 22.

SUTHERLAND of Swinzie *against* SUTHERLAND of Forse; and SUTHERLAND of Langwell *against* Swinzie.

No 5.

The proceedings of Commissioners of Supply, who have neglected to take the oaths of allegiance and abjuration, conform to act 16th Geo. II. 1749, are null.

THE estates of Risgill held of the Crown, and Langwell held of a subject, had formerly belonged to one proprietor; and were jointly valued in the cess books at L. 600, but coming into different hands, Sutherland of Swinzie, heritor of Risgill, applied to the Commissioners of Supply of the shire of Caithness for the year 1749, and obtained a disjunction of the valuation; and his own lands valued at L. 421 : 5 : 6d, and thereupon applied to the Michaelmas headcourt to be enrolled as a freeholder, entitled to vote in electing a member of Parliament: Which was refused on the objection of John Sutherland of Forse, That the Commissioners of Supply had made an unfair and unequal division; for that that his lands were not of so great value as those of Langwell, and consequently ought not to be valued at L. 400. Swinzie thereupon gave in to the Court of Session a complaint against Captain Sutherland, in terms of the act made for that purpose, 16th Geo. II, and insisted that the court of freeholders could not review the proceedings of the Commissioners of Supply.

Answered, By shewing the unfairness of the decret of the Commissioners, of which the freeholders were competent to cognosce, in order to enroll or reject the claimant; and of which Langwell was insisting in a reduction before the Court of Session.

2do, The Commissioners of Supply, not having qualified themselves, by taking the oaths, to entitle them to act under the act of Parliament, imposing the supply, their deeds were null.

THE LORDS superseded proceeding on the complaint till the issue of the reduction.

Sutherland of Langwell insisted in his reduction for the reasons foresaid.

Answered, The Lords are not competent to reduce the deeds of the Commissioners of Supply; who are a commission of Parliament, having these matters specially committed to them.

This question was not here determined; the matter going off on this *reply*, That the Commissioners, though having taken the oaths on other occasions, yet not having done it to qualify them to act upon this statute, their proceedings were null.

No 5.

Duplied, The act having imposed a penalty on such as should act without qualifying themselves, their actings were not null, providing they were contained in the nomination.

THE LORDS, 8th February, found, that the Commissioners of Supply, by whom the division of the pursuer's and defender's valuation was made, not having taken the oaths of allegiance and abjuration, pursuant to the act of Parliament 1749, years, were not capable to act in the execution of that act, or to make the said division; and therefore found the same void, and reduced the said division; and dismissed the complaint.

Swinzie petitioned against the interlocutors in both causes, which the LORDS refused.

In the Complaint, Act. Ferguson. Alt. Lockhart.
In the Reduction, Act. Lockhart. Alt. W. Grant. Clerk, Justice.

Fol. Dic. v. 3. p. 137. D. Falconer, v. 2. No 204. p. 246.

1753. February 21.

COLONEL ABERCROMBIE *against* WILLIAM LESLIE of Melross.

By a Michaelmas meeting of the freeholders of the county of Banff, the defender was enrolled in the roll of electors for that county.

The pursuer, one of the freeholders, complained; and objected, That the freeholders had enrolled the defender without legal evidence of his valued rent; for that the division of the valued rent of certain parcels of his lands from that of some lands belonging to another freeholder, had not been made by a legal meeting of the Commissioners of Supply, but only by a private meeting of four Commissioners, not summoned in terms of law. At advising this cause, though no iniquity was alleged in the division of the valuation made by the Commissioners, yet the Court was very clear, that, by the act of the convention of the estates 1687, the act 1690, William and Mary, sess. 2. cap. 6., and the other acts touching the supply, the meetings of the Commissioners must be either upon the day mentioned in the act of Parliament, or by adjournment, or when summoned by the convener. Now, as the meeting of the Commissioners was not summoned in any of these ways, it must be illegal; for when law appoints how a meeting is to be called, it must be called in that way, else it is not a legal meeting, and its acts are void.

No 6.

Commissioners of Supply cannot hold a meeting to make division of an heritor's valuation, &c. unless they are summoned, in terms of law, by the convener, on the day appointed by the act, or on another day by adjournment.