

No. 18. 1752, July 21. LOCKHART of Carnwath *against* HAIR.

I reported a suspension by Mr Lockhart of a charge by the schoolmaster of Carnwath for L.16. 9s. 9d. Scots as his proportion of the schoolmaster's salary yearly from 1747 of L.10 sterling, modified and allocated by five Commissioners of Supply on the application of a Committee of heritors, in terms of the 26th act 1696; and the Lords (*nem. con.*) found the letters orderly proceeded, and before answer to the claim of the double in terms of that act, ordained the charger to give in an account of his expenses;—notwithstanding of the reasons of suspension, first, That the decret did not name the Commissioners, so that they might have been no Commissioners; 2dly, That neither the suspender nor none of the heritors were summoned, but the salary both modified and allocated the same day; 3dly, That the Commissioners had no jurisdiction but upon the heritors neglecting to meet or not agreeing in settling and allocating the salary, but here was no evidence of the heritors being called to meet; 4thly, That they had no jurisdiction where a school was already settled and a salary allocated, whereas here there was an allocation by the heritors as old as 1650 of L.5 sterling in money and two pecks at oat-seed time out of every plough and every mill in the parish; 5thly, That at any rate they could only allocate according to the valued rent the new augmentation, whereas Mr Lockhart whose proportion of the old salary of L.5 sterling was only L.5 Scots, is burdened with L.16. 9s. 9d. of the L.10 sterling;—in respect of the answers, that 29th September 1746, five heritors met in pursuance of an intimation, and agreed on L.10 sterling of salary, and subscribed each for his proportion, to which three or four more heritors afterwards acceded and subscribed for their proportions; but as that was not a sufficient act of settlement, the Presbytery applied to the Commissioners of Supply, and no citation of heritors is required by the act, and the Commissioners had the books of valuation before them;—that the old settlement was gone into disuse, and none of the oats was paid, and what part of the L.5 sterling was paid was in small trifles, as a gratuity by such only as were willing;—and to restrict that part of the act 1696 to schools not already settled would restrict the whole of it and make it of little use;—that Mr Lockhart came too late to complain of his proportion after year and day, nor had he reason to complain, for as he has 16 ploughs in the parish, which would by the old decret make two bolls oats, that with L.5 Scots would be more than is now laid upon him.

No. 19. 1753, July 19 ANDERSON *against* SHERIFF-SUBSTITUTE OF KINROSS.

THREE Justices of Peace of Kinross, on complaint by the Sheriff-Substitute, (who was also a Justice of Peace, Sheriff-Clerk, and Justice of Peace Clerk) against Anderson for calling him rogue and rascal, fined him L.6 and L.2 of expenses, and ordered him to beg pardon, and banished him from the county during their pleasure, and ordered him to prison till payment of the fine, which he paid; and having afterwards come into the county, they gave warrant to apprehend him, and missing him they apprehended his horse, and published an advertisement prohibiting all within the county to harbour him. In a reduction of this sentence, at advising the proof, the pursuer passed from any per-

sonal conclusion against the other Justices, because he thought they did it ignorantly and were misled by the Sheriff-Substitute. I had some difficulty as to reducing the fine, because I thought the calling a Sheriff a rogue a great indignity, and quoted the case 14th November 1679 Town of Kirkaldy, (Dict. No. 98. p. 1984;) but the Court distinguished betwixt indignities done them in their office, and those done them as private men; and reduced the whole sentence, and found the Sheriff liable in damages and expenses; but inflicted no further censure.—3d August, Adhered.

PUBLIC POLICE.

No. 2. 1735, June 24. COLONEL M'DOWALL *against* MRS BROWN, &c.

THE Lords found that no bottles could be sold in retail but what were of some certain denomination, of quart, pint, chopin, and their fractions, and thought the seller bound to make up the quantity; but superseded determining further till Thursday, because it was said it was impossible to make bottles exactly agreeable to the standard, that the Lords might inform themselves.

No. 3. 1735, July 28. TOWN OF CANONGATE *against* THE MAGISTRATES OF EDINBURGH.

THE Lords adhered to the interlocutor finding the inhabitants of the Canongate may buy fish. The interlocutor is general without difference whether they are brought to be sold again or not.

No. 4. 1742, June 17. TOWN OF EDINBURGH *against* BRUCE of Grange.

THE question upon the act anent casting about high roads, Whether the meaning is that the new road can be no more than 200 ells longer, or that it can be no more than 200 ells distant from the old road? We affirmed Kilkerran's interlocutor, which in effect found that the new road can only be 200 ells longer, but not in express words.—27th June Adhered, and refused a bill without answers.

No. 5. 1743, Feb. 23. COLONEL STRAITON *against* THE BURGH OF MONTROSE.

IN this process upon the riot act, for some hundred bolls of meal taken from Colonel Straiton, two questions occurred. 1st, The libel did not conclude against the Burgh of Montrose in so many words, but against the Magistrates and their successors in office, as representing the Burgh. 2dly, Whether action lies by that act only for repairing the damage done to the house demolished or pulled down, or if there be also action for goods taken away? Upon the first question a doubt occurred, against whom execution could