

1742. *November 3.*

CHRISTIE, Petitioner.

No 152.

THE COURT sustained their jurisdiction to appoint an interim Commissary-clerk.

Fol. Dic. v. 3. p. 348.

1744. *July 17.*

MR ALEXANDER LYND of Gorgie, and Mr WALTER SANDILANDS, Petitioners.

No 153.

UPON a petition from Mr Alexander Lynd of Gorgie, and Mr Walter Sandilands, advocates, shewing, That the petitioners were appointed Deputy-Sheriffs of the county of Edinburgh, by commissions from the Earl of Lauderdale, Sheriff-principal of the said county, which commissions were now superseded by his Lordship's death, and, by means thereof, a stop is put to any farther procedure in such actions and causes as are intended and depending before that court; that, for preventing the inconveniencies that might arise to the lieges upon such emergencies, the Privy-Council of Scotland were in use, upon application made to them for that effect, to authorise and empower such persons as they thought proper to act during any vacancy; and particularly in the year 1703, upon application made to them on the death of the Marquis of Lothian, Sheriff-principal of the shire of Edinburgh, and Mr William Calderwood, and Mr Robert Forbes, advocates, the then Sheriff-deputes of the said county, the Lords of Privy-Council were pleased to authorise the said Sheriff-deputes to exercise that office till another Sheriff-principal was named by her late Majesty Queen Anne. That the said Lords had been in use to exercise this power formerly vested in the Privy-Council, in sundry similar cases, particularly upon the decease of ——— Dickson, Commissary of Lauder, the said Lords were pleased to appoint James Home, writer to the Signet, to officiate as Commissary, until the vacancy was supplied by the Crown. The petitioners, under the present circumstances, thought it their duty to represent to the said Lords, that there are several causes and actions presently depending before the Sheriff-court of Edinburgh, the delaying whereof might be highly detrimental to the lieges, and, on that account, humbly begged leave to petition the Lords, that they would be pleased to authorise them to go on in the exercise of their office till a new Sheriff-principal is named by his Majesty; and praying, therefore, it might please their Lordships to authorise and empower the petitioners to exercise the office of Sheriffs within the sheriffdom of Edinburgh, until his Majesty should think fit to nominate a Sheriff-principal, or to signify his pleasure thereanent. According to justice, &c. (Signed)

Upon the death of the Sheriff principal of a county, the Court authorised the deputes, who had been appointed by him, to exercise their office till a new Sheriff-principal should be appointed.

WALTER SANDILANDS.
ALEXANDER LYND.

No 153.

The said LORDS authorised and empowered the petitioners to exercise the office of Sheriff-deputes within the sheriffdom of Edinburgh, till a Sheriff-principal be appointed by the Crown, and they be superseded; and dispense with the reading hereof in the minute-book, and ordained the same to be inserted in the books of sederunt.

Acts of Sederunt, p. 382.

1745. *January 23.* EARL of DUMFRIES, Petitioner.

No 154.

The Court
appointed an
interim Sheriff-depute.

UPON a petition from William, Earl of Dumfries, shewing, That the deceased Colonel William Dalrymple of Glenmuir, the petitioner's father, being heritable Sheriff of the Sheriffdom of Clackmannan, stood infest as such: That, since his death, which happened upon the 30th day of November last, the office of Sheriff has been vacant, to the great prejudice of the lieges: That the petitioner has right to the lands and barony of Clackmannan, and to the heritable office of Sheriff of the same, not only as heir to, but as having right by disposition from his said father; but as he has not hitherto had time, either to expedite a service as heir, or obtain a charter under the Great Seal, and be thereupon infest, till which be done, he cannot appoint a Sheriff-depute to administrate justice to the lieges, and do the other necessary parts of the office, such as calling an inquest for striking the fiars, summoning the jury before the Circuits of the Justiciary Courts, and making the proper returns to the Justiciary Court at Edinburgh, and obeying any orders that may be issued from the Court of Exchequer; the petitioner is advised, that the Lords of Council and Session are in use, during such vacancies of any public office, to authorise a fit person to act in these offices in the interim; and as Robert Rollo, who was appointed depute under the petitioner's father, acted for several years in that capacity, with a fair character, and, in the petitioner's opinion, is a fit person for the office; craving therefore, it might please their Lordships, to authorise and appoint the said Robert Rollo, the former Sheriff-depute, to exercise the office of Sheriff-depute of the said shire of Clackmannan, with power to him to hold Courts from time to time in the ordinary form, to hear and decide in all causes competent before the Sheriff, and jurisdiction thereof; and to nominate and appoint deputies, in case of his necessary absence, procurator-fiscals, and serjeants of court, to issue precepts, summon juries, and generally to do all and sundry other things pertaining to the said office and jurisdiction, as freely, in all respects, as any other his predecessors in the said office have done, and that ay and until the petitioner make up his titles, and be infest in the said office of principal Sheriff, and appoint a new depute, and other members of court, or until further orders be issued from their Lordships. The said Lords authorise and appoint the above Robert Rollo, to exercise the office of Sheriff-depute of the said shire of Clackmannan, and that ay and until the petitioner is infest, and appoints another