

1752. June 30. ANDERSON against MAGISTRATES of Renfrew.

No 80.

THE COURT sustained its jurisdiction in complaints against Magistrates for mismanagement of the burgh revenue.

*Fol. Dic. v. 3. p. 341. Fac. Col.*

\*\* This case is No 33. p. 2539. *voce* COMMUNITY.

\*\* In conformity with this judgment were decided the cases, Dean against Magistrates of Irvine, No 23. p. 2522. *voce* COMMUNITY; and Merchant Company against Magistrates of Edinburgh, 9th August 1765, No 2. p. 5750. *voce* HOSPITAL.

In a case which had occurred in 1748, the competency of the Court of Exchequer to actions of this kind was contended for, in opposition to that of the Court of Session. THE LORDS, however, sustained their own jurisdiction.— And a similar question being tried in 1784, in the Court of Exchequer, in the case of certain Burgesses of Dunbarton against their Magistrates, that Court found that, *as now constituted*, they had no power to take cognizance of the public accounts of burgh revenues. See No 94. p. 7366.

*Fol. Dic. v. 3. p. 341.*

1754. March 10. GEORGE BUCHANAN against JAMES TOWART.

No 81.

GEORGE BUCHANAN proprietor of the woods of Auchindinnan, preferred a complaint to the Justices of Peace of Dumbartonshire, on the 13th act *anno* 1st Geo. I. entituled, 'An act to encourage the planting of timber-trees, &c. and for the better preservation of the same,' against James Towart, for cutting and stealing certain trees from the woods of Auchindinnan.

The Justices ordained Towart to be four months imprisoned, and four times whipped, in terms of the statute. He offered a bill of suspension and liberation, which was taken to report to the whole Lords.

The *objection* made to the passing of the bill was, That as, in the statute in question, 'the Justices of Peace are authorised to hear, and finally determine and adjudge,' all offences against the same; the determination of the Justices was here final; and the Court of Session could not review their sentence.

To which it was *answered* for Towart; In the language of statutes, "finally determine" does not import that the determination shall be final;

For, wherever a statute intends the determination of a court to be final, it uses an expression of its intention much more exact and copious than is contained in these words, "finally determine."

The act empowering Justices of the Peace to hear and finally determine offences in destroying trees, does not exclude the Court of Session from a power of review.