

1766. *January 21.* SIR JOHN GORDON *against* ANDERSON.

No 10.

ANDERSON of Udal was base infest upon a disposition from Hugh Anderson, who held of the proprietor of the estate of Cromarty; and, this sub-vassal having conveyed the lands to Henry Davidson, who infest himself base upon the precept in that conveyance; THE LORDS found both of them qualified to act as Commissioners of Supply. *Fol. Dic. v. 3. p. 136.*

1767. *December 24.*

WILLIAM PULTENEY, and Others, *against* SIR JOHN GORDON, and Others, Commissioners of Supply for the County of Cromarty.

No 11.

Any private Commissioner of Supply may call a meeting of the Commissioners, where there is no convener.

At a general meeting of the Commissioners of Supply for the county of Cromarty, 30th April 1765, they chose Sir John Gordon convener.

At a meeting upon the 20th June, in consequence of an adjournment, the Commissioners elected Charles Urquhart of Braelangwell convener, and adjourned to the 8th of October.

Sir John Gordon having obtained suspension of the proceedings at this meeting, and particularly of the nomination of Mr Urquhart as convener, called a meeting upon the 12th September, when the valuations of certain lands in the county were divided.

Mr Pulteney brought a reduction of these divisions, upon this ground, among others, that they were made at a private meeting, not called by any authority, Sir John Gordon, at whose desire the Commissioners were assembled, having been divested of the office of convener.

Sir John Gordon *answered, 1st*, That the Commissioners could not arbitrarily supersede him; *and, 2dly*, That the suspension of the nomination of Braelangwell had the effect to reinstate him in that office.

THE LORD ORDINARY having taken the cause to report, the Court were unanimously of opinion, that the Commissioners might remove their convener at pleasure; *2dly*, That Sir John was not reinstated by the suspension; but repelled the reasons of reduction, upon a ground which had not been in the view of the parties, viz. that where there is no convener, any private Commissioner may call a meeting.

Mr Pulteney, in a reclaiming petition, *contended*, That a meeting could not in any case be called by a private Commissioner upon the following topics; *1st*, From the tenor of the whole supply-acts, from first to last, it is evident, that the legislature never understood, that the Commissioners had the power of assembling themselves. Originally, conveners were expressly named in the act; afterwards a certain day was appointed for their first meeting, which day the Sheriff was to intimate to them; and, after the first meeting, they were em-

powered to adjourn themselves, and chuse their own convener, who might likewise assemble them occasionally. *2dly*, This has also been the sense of the country. Except in one or other of those ways, it has hitherto been understood, that the Commissioners could not assembled; and there is not one instance of their assembling themselves, or of a meeting being called by a private Commissioner. The decisions of the Court have also proceeded upon the supposition, that no such thing could be done. In the Dictionary, *voce* COMMISSIONERS OF SUPPLY, is a case reported in these words: 'In a competition, which of two persons was duly elected collector of the land-tax for the shire of Caithness, it was found, that, after elapsing of the day appointed by act of Parliament, the Sheriff of the shire was the proper person to appoint another diet for the Commissioners of Supply their first meeting; 3d Jan. 1729, Sinclair *contra* Sinclair,' (No 3. p. 2435). In that case there could have been no difficulty, if a meeting might have been called by any private Commissioner; but the Court seems to have been of a different opinion, and that it was necessary they should be assembled for the first meeting by the Sheriff. *3dly*, Giving such power to private Commissioners would be highly inexpedient; it might introduce great confusion into the business of the county; one Commissioner might call a meeting to-day, another to-morrow; and, as there is no fixed rule with regard to the notification, their intimations might be contrived in such a manner, as to reach only their particular friends, so that one set of Commissioners might be constantly undoing what another had done, and prescribing rules, with respect to the business of the county, diametrically opposite and contradictory to each other. In the division of valuation in particular, such a practice might be attended with the most unjust and oppressive consequences. It is for this reason the Court has repeatedly found, that no division of valuation should be held good, unless made either at a general meeting upon the day mentioned in the act, or at an adjournment from that meeting, or at a meeting summoned by the convener.

It was added, that there appeared no room for the plea of necessity. In the above mentioned case, it was found, that the Sheriff might still appoint the first meeting after the day assigned by the act of Parliament was elapsed. There seems the same reason why he should interpose his authority to after meetings, where there is no adjournment or convener. At any rate, there can be no doubt that an application to this Court would in all cases be effectual. In the present case, the meeting stood only adjourned to the 8th of October.

'THE LORDS refused the petition, without answers.'

Act. Ilay Campbell, M^o Queen, et alii.

Alt. Blair, et alii.

A. R.

Fol. Dic. v. 3. p. 137. Fac. Col. No 71. p. 124.

Proceedings of Commissioners on dividing valuations, &c. See MEMBER of
PARLIAMENT.

See APPENDIX.