

1753. *June 26.* INNES of Sandside *contra* SUTHERLAND of Swinzie.

A division of a cumulo valuation of lands being made by a decree of the Commissioners of Supply; and the proprietor of one of the parts valued at L400 Scots, being enrolled at a Michaelmas meeting of freeholders, upon the evidence of the decree: a complaint was made to the Court of Session of the enrolment, upon this, among other grounds,—that the meeting of the Commissioners of Supply which divided the valuation, was not regular, not being the first regular meeting appointed by Act of Parliament, nor an adjournment of such meeting, nor a meeting appointed by the convener. The fact was, that by the Cess Act 1751, the 4th June that year was appointed for the first meeting of the commissioners; but the Act not having come down till after that day was elapsed, the commissioners were convened, *quam primum* afterward, by the sheriff. In support of the objection it was urged, that what passes in the House of Commons is presumed to be known to all the lieges; and that the commissioners had authority to meet the 4th of June, though the printed act was not come down. The Lords made light of this objection. The printed act was deemed the proper legal intimation; and it was reckoned absurd that the neglect of publishing the act should be attended with so violent a consequence as that of freedom from the land-tax; and, therefore, the objection was repelled.

I was not satisfied. The land-tax is a debt which, in all events, ought to be levied; and if it cannot be done in the regular way, another method must be substituted. The extraordinary powers of the Commissioners are to be considered in a different light. No meeting is empowered to split a valuation, but what is regular, in terms of the statute. And if such a meeting cannot be had, there is no such necessity in this case as in the former, to apply a remedy. No loss ensues, save only a year's delay in splitting the valuation.

*Select Decisions, No. 45. page 52.*

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1757. *November 17.* Creditors of DUNJOP *contra* HUGH ALISON.

GABRIEL ALISON of Dunjop, *anno* 1697, set his lands of Whitepark to Robert Affleck, for the yearly rent of L108 Scots, to commence at Whitsunday 1698, and to endure fifteen years. In November, 1704, Robert Affleck obtained a decret of adjudication against Gabriel Alison, of the lands of Dunjop, Largs, and Whitepark; for security and payment of the sums contained in three bonds, granted by Gabriel to Robert after the 1700.

Robert Affleck, who had entered into possession upon his tack, died in the year 1718; and the possession was continued by his son John, without making up any title to the adjudication.

Hugh Alison, as apparent heir to the said Gabriel Alison deceased, brought a sale of the estate of Dunjop, including the lands of Whitepark; and, in the ranking of the creditors, appearance was made for Agnes and Margaret Afflecks, re-