

penalty could be exacted for his acting at one meeting; "The Lords found Logan liable in one penalty of L. 20 sterling, but in no expenses."

As to the expenses, it was contended for Logan, that there was no foundation for any; the complainers must pay them out of their penalty.

1775. July . WILSON *against* JACKSON.

It is a maxim of the law of England, that costs are never given to the King; it is below him to ask them. In a prosecution for usury, Wilson, procurator-fiscal of Renfrew, against Jackson, where the Lords annulled the deed, and decreed for triple value, in terms of the Act of Queen Anne; they refused costs, because, as the prosecution was at the instance of the procurator-fiscal alone, the forfeiture was for his Majesty's use.

1776. July 9. DUNCAN HENDERSON *against* THOMSON.

HENDERSON, an officer of excise, having brought a process of *cessio* against his creditors, met with considerable opposition, which, as he alleged, did not arise fairly from his creditors, but from an unlawful combination of certain smugglers, who instigated his creditors to oppose him, and had entered into a bond for that purpose, and to defray the expense of the litigation.

Having however prevailed in his *cessio*, and being liberated, he brought a process of damages against the alleged conspirators. The Lords demurred as to the relevancy; but, as he alleged proof *scripto* as to the bond of combination, before answer, they granted him a diligence for recovering it. He extracted it, and executed it against some of the defenders for production of the bond, as was done in the case of Stirling; and, though they could not be examined *in causa*, yet he examined them as havers. They came to town and were examined accordingly. After deponing, they claimed their expenses as witnesses, for in that character they had been examined; Lord Hailes and Lord Kennet, Ordinaries on oaths and witnesses, found them entitled to expenses, 9th July 1776.

Afterwards, before answer, the Lords allowed a proof at large to both parties, August 1776.

Personal expenses sometimes given in name of damages; see *Snodgrass, &c.* against *Wetherspoon, tit.* , Damages for Defamation.

1774. August . DAVIDSON *against* M'KENZIE.

UNDER a decree for conventional penalties, it has been understood and found, that the obtainer could claim no expenses of process, except they were specially