

APPENDIX.

PART I.

PUBLIC OFFICER.

1799: December 14.

JOHN HAWTHORN and Others, *against* JAMES FRASER.

JOHN HAWTHORN, and two other procurators before the Sheriff and Commissary-courts of Wigton, presented a petition and complaint against James Fraser, for having, contrary to the act of sederunt, 6th March 1783, acted as procurator before these courts, while he held the offices of depute-clerk before both, and having availed himself of this situation to the prejudice of the opposite litigants.

Fraser stated, that he had resigned the office of depute Sheriff-clerk before the complaint was presented, and had since given up acting as procurator before the Commissary-court. He denied the other ground of charge against him.

‘ The Lords having advised the petition and complaint, with the answers
‘ thereto, replies and duplies, find, That the respondent did wrong in acting
‘ for a time both as deputy Sheriff-clerk and as a procurator before the Sheriff-
‘ court, and in acting both as deputy-clerk and procurator before the Commis-
‘ sary-court of the district, and prohibit and discharge him from doing so in
‘ time to come : But, in respect that he had resigned the office of depute Sheriff-
‘ clerk before this complaint was exhibited against him, and has since also given
‘ up acting as a procurator before the Commissary-court, find, That the present
‘ complaint was so far unnecessary, or is now superseded : And in respect that
‘ any complaint against him for malversation in office, whether as a procurator,
‘ or as a deputy Sheriff-clerk, or Commissary-clerk, ought rather to have been
‘ made to these courts in the first instance than to the Supreme Court, find the
‘ complainers not entitled to expences ; but recommend to the Sheriff-depute

No. 1.

A Sheriff or
Commissary-
clerk-depute
cannot act as
Procurator
before the
Sheriff-court
or Commis-
sary-court.

No. 1. ‘ of the county, and to the Commissary of the bounds, respectively, to inquire
 ‘ into the situation of the above-mentioned offices, and into the conduct of
 ‘ those acting as the Sheriff or Commissary-clerks, whether principal or depu-
 ‘ ties, particularly in the view of obliging the principals either to officiate them-
 ‘ selves, or to provide other qualified persons to act for them as their deputies,
 ‘ with adequate allowances for so doing ; and likewise into the conduct of Mr.
 ‘ Fraser as a practitioner, and how far he has been guilty of any malversation
 ‘ or breach of duty, either in one capacity or another, in case of any charge
 ‘ being made against him by the Procurator-fiscal or others, and to proceed as
 ‘ he shall find just and fit in the circumstances of the case.’

Act. *Rae.*Alt. *Hay.*Clerk, *Pringle.**D. D.**Fac. Coll. No. 149. p. 334.*1808. *July 9.*

ANDREW MILLAR, Schoolmaster in the parish of Cambuslang, *against* WIL-
 LIAM JACKSON.

No. 2.

Act 43d
 Geo. III. C.
 54. anent
 schoolmasters
 salaries. By
 2d and 5th
 sections of
 this act, it is
 declared, that
 within three
 months the
 heritors shall
 meet to ac-
 complish its
 purposes ;
 and within
 three months
 from the time
 when such
 meeting is or
 ought to have
 been held, the
 dissatisfied
 party may ap-
 peal to the
 quarter-ses-
 sions. These
 periods hav-
 ing elapsed,
 it was never-
 theless found
 competent to

By the act 43d Geo. III. C. 54. it is enacted, ‘ That from and after the
 ‘ term of Whitsunday next, 1803, the salary of each parochial schoolmaster, in
 ‘ every parish of Scotland, shall not be under the sum of 300 merks Scots per
 ‘ annum, nor above the sum of 400 merks Scots per annum, except in the cases
 ‘ herein after mentioned.’

Sect. 2. prescribes a period within which the heritors are to meet and settle
 the amount of the salaries : ‘ And be it further enacted, *That within three*
 ‘ *months after the passing of this act,* the heritors possessed of the qualification
 ‘ required by this act, and the ministers of every parish, shall hold a meeting,
 ‘ of which intimation shall be given from the pulpit immediately after divine
 ‘ service in the forenoon, and by circular letters to be written by the ministers
 ‘ of the parish to such heritors having the qualification prescribed by this act,
 ‘ who are non-resident, and also by leaving a written notice at the mansion-
 ‘ house of every heritor, whether resident or not, at least thirty free days be-
 ‘ fore such meeting shall take place ; and on due consideration of the circum-
 ‘ stances of the particular parish, in respect of extent, population, and valued
 ‘ rent, and the probable amount of the other emoluments of the schoolmaster’s
 ‘ office, such meeting shall judge and determine whether the schoolmaster’s
 ‘ salary should be 300 merks Scots per annum, or 400 merks Scots per an-
 ‘ num, or such sum between these two sums as to such meeting shall seem
 ‘ most suitable to the circumstances of the parish ; and shall fix and determine
 ‘ the amount of the schoolmaster’s salary by a resolution to be made at such
 ‘ meeting ; a copy of which resolution, signed by the preses of the meeting, shall