

No 43. upon each particular parish. If the magistrates of a burgh can, by their own arbitrary will, without having any rule, divide the cess betwixt the proprietors of houses and those who live by commerce, they may subdivide it betwixt the manufacturers and traders, or order it to be laid on by quarters of the town. In a word, the magistrates cannot give any lawful instruction to the stent-master, other than to make a stent-roll valuing the rents, living, and goods and gear of each individual. Had the matter been set before the Court in this light, it would have left no room for any pretext of discretionary powers in the magistrates. They have not by law any discretionary power other than what relates to the choice of the stent-masters.

There was a reclaiming petition against the foregoing interlocutors, to which answers were given in ; and, in the replies, the foregoing reasoning was stated. But it came too late. The majority of the Court had taken a bias from the case as first stated to them ; and accordingly the interlocutors were affirmed.

*Sel. Dec. No 154. p. 210.*

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S E C T. V.

The Privileges of Burghs and Burgesses.—Monopolies.

TOWN OF ABERDEEN *against* LITSTERS.

No 44.

IT was found that a person could not both use merchandise and be a litster.

*Kerse, MS. (BURGH.) fol. 17.*

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LORD of NEWHALL *against* TOWN of CURRELS.

No 45.

THE LORDS found that no burgess could pack or peel within the liberties of the town of Currels without their own licence.

*Kerse, MS. (BURGH.) fol. 17.*

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1518. *November 16.* TOWN of EDINBURGH *against* LEITH.

No 46.  
Rights of the  
burgh of  
Edinburgh  
over Leith.

THE Town of Edinburgh obtained decret against the inhabitants of Leith, decerning them to desist from all buying of wool, hides, skin, cloth, and all merchandise, in the country from unfreemen, and that all such merchandise be brought to Edinburgh, and their coft from the burgesses ; and in like manner to desist from all packing and peeling, within Leith, but within Edinburgh, and to pay their customers in Edinburgh for the same ; and also decerning the hail inha-

bitants from buying wine, coals, victual, timber, pitch, tar, lint, and other goods, coming to Leith by strangers, until first they make entry in the town's books, and shall be controlled there, and other officers be satisfied for the King's use; and also decerning the said inhabitants from all buying, killing of herrings, selches, and other fishes coming within Leith, and peeling and salting of the same, and sending the same into England or other foreign parts.

*Kerse, MS. (BURGH.) fol. 17.*

No 46.

1522. *January 24.*

Same Parties.

INHABITANTS of Leith to desist and cease from all buying of prize goods coming in in prize ships, but to be bought by burgesses of Edinburgh, and from men thereof.

*Kerse, MS. (BURGH.) fol. 17.*

No 47.

1628. *March 21.* The WEAVERS, FREEMEN in Stirling, *against* UNFREEMEN.

IN an action at the instance of the websters, freemen in Stirling, with concurrence of the agent for the burghs, against certain unfreemen, for exercising of the craft within that burgh, and discharging them thereof, the Lords sustained the pursuit; for the same was founded upon acts of Parliament, James VI., even against such as dwelt within the privilege and liberty of the Castle of Stirling, which was the King's House; albeit they alleged, that the acts of Parliament struck only against such as dwelt within the suburbs of towns, and so could not extend to them who were tenants to the King, and dwelt within the territories and jurisdiction of the King's house, which could not be called a suburb, which was repelled; but the Lords declared, that this discharge extended only to prohibit them to work within the town, and not to stay them to work within their own dwelling-houses.

Act. ———

Alt. *Hope.**Hay, Clerk.*

*Fol. Dic. v. J. p. 118. Durie, p. 365.*

No 48.

Craftsmen, unfreemen, cannot exercise their trade within burgh; but may work in their own houses in the suburbs.

1632. *July 31.* M'KORINNOCH *against* JOHNSTON.

ONE M'Korinnoch, burghess and indweller in Kirkcudbright, pursues the relict of umquhile ———, who was also burghess, and died in that town, the relict also being still dwelling in that town, before the Sheriff of the sheriffdom, to make payment to him of certain prices for particulars furnished to her, extending to six or seven score pounds, and whereof she promised him payment; whereupon having obtained sentence before the Sheriff, and thereupon charging her, she

No 49.

Burgesses may convene one another before the Sheriff of the county.