

extended to this case, where there is a special order set down by act of Parliament.

No 50.

THE LORDS found that the burghs-royal (might seize) summarily upon staple ware of unfreemen, and might judge thereanent; but not summarily incarcerate their persons, but only to charge them; and found their custom and privilege not to extend to this case; and, therefore, found the reason of reduction relevant.

*Fol. Dic. v. 1. p. 119. Stair, v. 1. p. 165.*

1664. June 24. TOWN of CUPAR against TOWN of KINNOTHY.

THE town of Cupar having charged the town of Kinnothy to desist from merchant trade, they suspend and *allege*, That they have the privilege of burgh of barony, in keeping hostlers and selling wine.—The charger *answered*, That selling of wine is one of their chiefest and express privileges.

THE LORDS, considering that this dipped upon the controversy betwixt burgh royal and burgh of barony, which has remained undecided these thirty years, would not discuss this particular; but found the letters orderly proceeded in general, ay and while the defenders found caution to desist from merchant trade, without determining how far that reached. *See BURGH of BARONY.*

*Stair, v. 1. p. 204.*

No 51.

A burgh royal was found entitled to charge a burgh of barony, to find caution to desist from merchant trade.

1669. July 21.

TOWN of PERTH against The WEAVERS of the BRIDGE-END of PERTH.

THE town of Perth pursues the weavers at the Bridge-end of Perth, either to desist from weaving in their suburbs, or otherwise to pay a duty, accustomed to be paid by the weavers there, to the town, for that liberty, conform to the several tickets produced, and that conform to the 156th act, Parliament 1592, entitled, *The Exercise of Crafts within Suburbs adjacent to Burghs forbidden*.—It was *alleged* for the defenders, and Sir George Hay, their master, absolutor, because the said act of Parliament has been in continual disuetude, and was never in use. *2dly*, Though it were yet effectual, yet it can only be understood of such suburbs as have no privileges; but, where the suburbs are contained in any burgh of regality or barony, or within any barony having no burgh, the privileges of these erections warrants the exercise of all craftsmen; so that these websters living within the barony of Pitcullen, cannot be, upon that pretence, hindered from exercising their trade.—The pursuer *answered*, That he opposed the act of Parliament being general; and that it was a standing law unrepealed; and that the obligations of the weavers living there, to pay a duty for their liberty of weaving, did preserve the act in vigour, at least as to this burgh.—The defenders *answered*, That these weavers being in no incorporation, the tickets

No 52.

The act for prohibiting crafts within suburbs adjacent to burghs, found not to apply where these suburbs are within a barony.