

\*.\* Gosford reports this case :

No 147. 1668. *July 22.*—JOHN BOSWELL having a tenement and some acres of land in Kirkcaldy, did intent action against the Magistrates for repetition of some impositions laid upon his land more than was due ; and particularly, for payment of a proportion of the stipend given to a second minister, for which they had stented his lands in relation to the whole stipend ;—whereas, at first, the half of the stipend was only to be paid by the burgh, and the other half by the landward parish ; but there being a new kirk erected for the landward, that half paid to the Town minister by them was settled upon the minister of the new kirk ; whereupon the Town did impose the same upon their own incorporation.—THE LORDS found, that the Magistrates had no power to impose such a stent, albeit for a pious use, unless the heritors on whose lands it was, imposed, or made voluntary payment.—See BURGH ROYAL.

*Gosford, MS. No 44. p. 16.*

1669. *July 21.* TOWN of PERTH *against* WEAVERS of the BRIDGE-END of Perth.

No 148. THE act 156th, Parl. 1592, entituled, “The exercise of crafts within suburbs adjacent to burghs, forbidden,” does not extend to suburbs which are within a regality or barony ; yet a royal-burgh having been in immemorial custom of levying a duty from craftsmen, exercising their trade in a suburb within a barony, insisted they had a right to continue the exaction by the positive prescription. *Answered,* The craftsmen were no incorporation, and the duty paid by any of them could hurt none but themselves ; which the LORDS sustained, and decerned only against those who had been in use of payment.

*Fol. Dic. v. 2. p. 109. Stair. Gosford.*

\*.\* This case is No 52. p. 1905. *voce* BURGH ROYAL.

No 149.  
Found in conformity to Douglas *against* Town of Jedburgh, No 145. p. 1589. that 40 years possession gave right to a Sheriff to ride a fair, and to exact so much for gloves, and for the best staig in the fair.

1672. *July 11.* EARL of CALLENDER *against* TOWN of STIRLING.

THE Earl of Callender being infest in the heritable office of Sheriffship of Stirling, pursues a declarator against the Town, that he hath right to ride their fairs, and to exact so much for the Sheriff-gloves, and for the price of the best staig in the fair. The defenders *alleged* absolvitor, because the Earl was not infest in any such duties ; and albeit he or his authors had been in possession thereof, it could only be understood in way of gratification, to be continued no longer than the burgh pleased, and if it were otherways exacted, it was unwarrantable ; neither can the pursuer pretend prescription by 40 years possession before this pursuit, because he hath been long out of possession. The