

the face of the poor by keeping it up to a dearth, when it is brought there; and which are punished by our law, act 148th, 1592, (in the new edition it is act 150), under which crimes the landward butchers fall directly; for they either sell them privately, or keep them up to a dearth, though very competent prices be offered them; and thus, though they bear no part of the public burdens the town tradesmen pay, yet they eat the meat out of their very mouths. *Replied*, That, at this rate, the town might assume the power to set prices on all the goods brought into their markets from the country, such as shoes, stockings, wright and smith work; and *esto*, they had possession of such a restraint on the freedom of markets, that is but a *corruptela*, and cannot prevail against public utility, as was found at the instance of the country shoemakers against those of Perth, *vide* PRIVILEGE. And the design here is plain. The skinners of Edinburgh concert among themselves on a small price, and none to go beyond it; and so to force the poor country fleshers to sell their skins at half nothing, and in case of refusal to lose them by seizure. THE LORDS looked on this restraint as oppression; and found if they could not agree, they might take home their hides; and that the Magistrates could neither confiscate nor imprison on that account; but found they must bring them to the market, and subject them to a visitation as to their sufficiency; though not bound to stand to their price.

No 382.

*Fountainhall, v. 2. p. 752.*

1741. July 21.

JAFFRAY *against* The MAGISTRATES and TOWN-COUNCIL of Stirling.

THE Town-council of Stirling, after electing James Jaffray in the council, having discovered that he was minor, did, upon proof taken, suspend him from said office during his minority; whereof he having presented a bill of suspension, in which he objected to the council's power, informations on that point were ordered; and upon advising thereof, the COURT was unanimous, "that as the minor was incapable of the office, so the council had power to suspend him."

Were any one convened before the council, it would be a relevant objection to a member of the council that he was minor; and all courts must have power to judge of declinators against any of their number. And as this is a declinator which reaches every case, the Court may *ex proprio motu* cognosce upon it."

*Fol. Dic. v. 3. p. 362. Kilkerran, (JURISDICTION.) No 1. p. 321.*

No 383.  
Jurisdiction of the Town-council of a burgh, as to who are entitled to be members of council.