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trial; and that in consequence thereof, the prosecution was dismissed against Fraser.

*Answered* for William Fraser, Supposing the facts to be true, they were not relevant to give a title to relief; for transacting a crime is in itself a crime, a null act; and the rule of law takes place, *Quod in turpi causa melior est conditio possidentis*.

“THE LORDS found William Fraser liable for the contents of the bill.”

Act. Ross, *And. Pringle, Ferguson.*

Alt. J. Dalrymple, Lockhart.

J. D.

Fol. Dic. v. 4. p. 30. Fac. Col. No 146. p. 264.

1765. December 1765.

JOHN YOUNG *against* PROCURATORS of the Bailie-court of Leith.

No 96.

A regulation made by the bailies of Leith, confining the office of procurator before their court to those who had been apprentices to their procurators, or to their clerk, was found illegal.

In the year 1722, certain regulations were made by the Bailies of Leith concerning the forms of procedure in the administration of justice, and the qualification of practitioners before that Court; among other articles, providing, “that when the procurators are not under three in number, none shall be allowed to enter except such as have served the clerk or procurator for the space of three years as an apprentice, and one year at least thereafter, beside undergoing a trial by the procurators of Court, named by the Magistrates for that effect.” Upon this article, an objection was made against John Young, craving to be entered a procurator, as having served an apprenticeship to an agent of character before the Court of Session, and demanding to be put upon trial. The Bailies having found the petitioner not qualified in terms of the regulations, the cause was advocated; and the Court found the said article void as *contra utilitatem publicam* by establishing a monopoly.

Fol. Dic. v. 4. p. 37. Sel. Dec. No 235. p. 309.

1766. January 21.

BARR *against* CARR.

No 97.

An unlawful combination among the journeymen weavers in the town of Paisley found null, so as not to found an action.

THE journeymen weavers in the town of Paisley, emboldened by numbers, began with mobs and riotous proceedings, in order to obtain higher wages. But these covert acts having been suppressed by authority of the Court of Session, they went more cunningly to work, by contriving a kind of society termed the defence-box; and a written contract was subscribed by more than six hundred of them, containing many innocent and plausible articles, in order to cover their views, but chiefly calculated to bind them not to work under a certain rate, and to support, out of their periodical contributions, those who, by insisting on high wages, might not find employment. Seven of the

subscribers being charged upon the contract for payment of their stipulated contributions, brought a suspension; in which it was found, That this society was an unlawful combination, under the false colour of carrying on trade, and that the contract was void, as *contra utilitatem publicam*.

*Fol. Dic. v. 4. p. 35. Sel. Dec. No 238. p. 312.*

\* \* \* This case is reported in the Faculty Collection.

CERTAIN journeymen weavers of Paisley framed a contract of co-partnery, bearing to be for carrying on a joint trade of manufacturing and selling silk and linen goods, and containing the following articles: That the number of partners should not be less than 600; that the affairs of the company should be managed by a preses and 19 directors, annually chosen, and other officers; that each partner should be 2s. at the commencement of the company, and a small monthly sum during its continuance, which was declared to be for 12 years, from 8th May 1764; that no dividend of the profits should be made till the lapse of that period; that, upon calling a general meeting of the company, the rate of wages might be fixed, under which no member should be at liberty to work; that the shares should be transferable under certain regulations; that the directors should be at liberty to admit any number of additional partners upon certain conditions.

In the space of a few days, the contract was signed by more than 600 persons; and the co-partnery commenced under the denomination of the Universal Trading Company of Paisley,

At length some of the members refused to pay up their contributions, and being charged upon the contract, insisted in a reduction of it, as being no other than a combination of manufacturers to raise their wages; and, therefore, illegal both at common law and by statute.

*Pleaded* for the company, The institution was designed for the laudable purpose of carrying on a joint trade with the savings of their industry, which separately could not be turned to account by the individual members; and there is no law in Scotland which restricts the number of partners in a trading company.

It was not for the general interest of the company to increase the rate of wages; because, though part of the members were journeymen weavers, many of them were of different professions, some of them manufacturers, who had occasion to employ journeymen. And it was not in their power to do it, because the dealings of the company were not extensive enough to enable them to employ any considerable number of journeymen, nor their stock large enough to maintain them without working, should they be refused employment from the other manufacturers.

*Answered*, The number of partners, already above 600, and which may be increased to thousands; the employment of the partners, almost all of them

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journeymen weavers, though a few perhaps may be masters of a loom or two, which they let out for hire; and the trifling amount of their contributions, are so many proofs, that the co-partnery could not be intended for carrying on a trade, or meant for any other purpose, than as a cover to an illegal combination for increasing the rate of wages. Indeed, by an express clause of the contract, the partners are taken bound not to work under the rates which shall be fixed by the directors.

An instance of the same kind, occurred in 1762, in the case of the Woolcombers of Aberdeen, who had entered into a society, under pretence of raising a fund for the support of the aged or disabled persons of their trade; but, as there was reason to believe that there were different purposes at bottom, the Court found, "That such combinations of artificers, whereby they collect money for a common box, inflict penalties, impose oaths, and make other by-laws, are of dangerous tendency, subversive of peace and order, and against law; and, therefore, prohibited and discharged the woolcombers to continue to act under such combination or society for the future, or to enter into any such new society or combination."

Reference was also made to the statute 6th Geo. I. cap. 18. § 18, as prohibiting the acting as bodies corporate, or raising transferable stocks without legal authority; though it may be doubted how far that statute, commonly known under the name of the Bubble act, is applicable to this question.

"THE LORDS found, that the contract and agreement in question was not intended for carrying on a manufacture, but is an illegal combination, and of dangerous tendency to society. And therefore found the reasons of reduction relevant and proven, and reduced and decerned accordingly; and found the defenders liable in the expense of extract."

Reporter, Gardenston.

Act. Wight.

Alt. H. Dundas.

Clerk, Ross.

G. F.

Fac. Col. No. 30. p. 248.

1772. December 12.

MITCHELL against BAIRD.

No 98.

A missive was granted to give no opposition to the reduction of the verdict of a jury. Suspended as *contra bonos mores*.

THE LORDS adhered to an interlocutor of the LORD ORDINARY, "sustaining this reason of suspension of a decree of an inferior court, that the missive libelled on was *contra bonos mores*."

The missive was of the following tenor: "March 27. 1766, Sir, As you have, of this date, given me your missive to give no opposition in the process of exhibition and reduction of the verdict of a jury at your instance against Janet Stevenson, my spouse, for which I promise to pay you L. 155 Sterling, in case I succeed in said process, as witness my hand."

The relative missive was of this tenor: "March 27. 1766, Sir, As you have, of this date, given me your missive for L. 155 Sterling, in order to yield all