

1781. *June 15.*

DAVID TOD and Others, *against* The MAGISTRATES and TOWN COUNCIL of St Andrews.

THE magistrates of St Andrews had imposed, under the denomination of a causeway mail, first a halfpenny, and then a penny, on each cart load of dung, sold to or carried off by strangers, from any inhabitant of the town. Several of the farmers in the neighbourhood, with some of the inhabitants of the town, brought an action of declarator, 'to have it found and declared, that the magistrates and town council had no right to impose new burdens, taxes, duties, or customs, either upon the inhabitants of the city, or on the lieges in general, who may have occasion to resort to the city with their horses, carts, or other carriages for dung, or any other materials for the purposes of agriculture, or otherwise, not particularly specified in their rights and charters, and occupied as such past the years of prescription,' &c.

THE LORDS unanimously decerned in the declarator, and found the defenders liable in expences.

Reporter, *Lord Justice Clerk.*

Act. *H. Erskine.*

Alt. *Alex. Fergusson.*

Fol. Dic. v. 3. p. 102. Fac. Col. No 58. p. 97.

No 106.
Magistrates have no power of imposing taxes.

1783. *February 28.*

JOHN PATERSON and Others, *against* The MAGISTRATES and TOWN COUNCIL of Stirling, and the CORPORATION of WEAVERS in that Burgh.

By very ancient grants from the Crown, the town of Stirling possesses the right of holding weekly markets. For rendering this right effectual with respect to the selling and buying of yarn, the magistrates and town council, in 1687, and again in 1703, enacted, 'That unfree and country weavers should not be permitted to buy any linen or woollen yarn to be brought to the burgh for sale, except upon the public market place, and after eleven o'clock forenoon each market day.'

In 1715; the country weavers, in a process of reduction of these acts, obtained a decree of the Court of Session in their favour, changing the hour of the market from *eleven* o'clock to *nine* in the morning.

In 1777, Paterson, and others of the country weavers of Stirlingshire, instituted an action of reduction of that decree; in which they insisted for the unrestrained freedom of buying yarn in the market, each market day at any hour of the day, and likewise demanded that the burgesses and inhabitants, as well as other persons, should be prohibited from purchasing yarn except in open mar-

No 107.
The Court of Session considered themselves empowered to change the hour and other circumstances of the public market of a royal burgh, in opposition to the regulations already established by the council of the burgh.