

No 108. any impost, duty, custom, or tax, on potatoes brought into Glasgow, and sold either on carts in the streets, or by retail in houses or shops.'

Thereafter, however, on advising a reclaiming petition, with answers, which were followed with memorials, the Lords pronounced this judgment :

' Find, That the magistrates of Glasgow have a right to establish proper market places within the burgh, and to impose and levy small duties on potatoes, or other commodities sold therein : Find, That on potatoes sold in the streets, shops, cellars, or elsewhere within the burgh, the magistrates may levy the same dues as when they are sold in the market places ; but find, That the duties lately imposed on potatoes are too high ; and remit to the Lord Ordinary to proceed accordingly.'

Lord Ordinary, *Braxfield.* Act. Dean of Faculty, Solicitor-General Blair, *Morthland,*
J. Miller, jun. Alt. Lord Advocate, *Craig, A. Campbell.* Clerk, *Sinclair.*
Fol. Dic. v. 3. p. 102. Fac. Col. No 284. p. 436.

* * See Skene against Ross, 17th June 1794, *voce* JURISDICTION.

No 109.

A salmon fishing belonged to a community. The burgesses had been in use to fish individually. The Magistrates let the fishing to a tacksman. Found, that no right belonged to the burgesses, as distinguished from the community. The Magistrates represented the community ; and therefore were entitled to assume this act of management.

1786. July 19.

ROBERT FRAM and Others, *against* The MAGISTRATES of Dumbarton.

By the charters from the Crown, in favour of the town of Dumbarton, a right of salmon fishing was conferred on ' the bailies, *burgesses*, counsellors, community, and *inhabitants*.'

In very ancient times, it appeared that the burgesses, in person, exercised this right, on paying a trifling yearly duty for each coble or boat to the magistrates.

Afterwards, for more than a century, the fishings were let to tacksmen, who became bound to expose in the market place, at certain low rates, either the whole fishes caught, or a quantity thought sufficient to answer the demands of the town's people.

In the year 1783, the magistrates having let the fishings without any restriction, Robert Fram, and other burgesses, insisted in a declaratory action, for ascertaining their right to be provided with salmon in the manner formerly practised. They *contended*, That the salmon fishing in question had been conveyed to the *burgesses* individually ; and that the low prices hitherto paid, were to be considered merely as a composition agreed on between the burgesses and the magistrates, the former being thus enabled, instead of fishing for the use of their families, to apply themselves to other and more profitable pursuits.

THE COURT, however, were of opinion, That no right was here intended in favour of the *burgesses*, as distinguished from the *community* of the burgh, represented by the magistrates ; and that the magistrates, without any regard to former practice, were authorised to grant leases of this, in the same manner as of the other property of the town, whenever the general advantage of the inhabi-

tants did not suggest a different method of administration. — * 1776, Bur-
gesses of Kilmarnock *contra* the Magistrates.

No 109.

' THE LORDS assoilzied the defendérs, and found them entitled to expences.'

Reporter, *Lord Eskgrove.*
Clerk, *Colquhoun.*

Act. *Dean of Faculty, Maclaurin.*

Alt. *Lord Advocate, Craig.*

Craigie.

Fol. Dic. v. 3. p. 103. Fac. Col. No. 287. p. 441.

1786. *July 21.*

ALEXANDER DUNCAN, and Others, *against* The MAGISTRATES of ABERDEEN.

BETWEEN the years 1620 and 1675, the fine, or composition, paid in the town of Aberdeen by intrans burgesses, had been gradually increased by the magistrates from 100 to 400 merks.

In 1699, these dues of entry were reduced to 100 merks; and, on this footing, matters continued till 1779.

About this time the trade of the town had greatly increased. A considerable debt, too, had been incurred in building a commodious harbour, and in other improvements of the same nature; and the dues of entry were augmented to L. 25 Sterling.

Alexander Duncan, and other unfreemen, brought an action for setting aside this regulation; and

Pleaded: The revenues of a royal burgh, where they arise from the advantages of exclusive trade, are not to be extended beyond the limits of ancient usage and possession. Whenever, from the expence of public works, or from any other cause, the income of the community has become inadequate, recourse must be had, either to a general taxation of the inhabitants, as prescribed by the statute 1592, c. 155, or to the immediate authority of Parliament; Stair, 11th January 1678, Town of Aberdeen, No 16. p. 1866. It is by these means alone, that new burdens can at present be imposed in royal burghs. In this manner only it can be shown, that such an alteration is indispensably requisite, while every danger of an improper selection of taxable subjects is precluded. The present regulation, by which a new obstacle is thrown in the way of young men in their progress in trade, seems, in every point of view, most oppressive and impolitic; and the ancient practice in this burgh, as corrected and brought back at a later period to its original state, does not afford any countenance to it.

Answered: What is here complained of as an undue extension of the privileges conferred on this town, is only a proper exercise of its established rights. The benefit of exclusive trade forms an essential part of the constitution of every corporation of this sort; nor has any limitation been imposed as to the

No 110.

The Magistrates of a royal burgh have power to increase the dues paid by persons becoming burgesses.

* Not yet reported. See APPENDIX.