

1807. *December 15.* WILLIAM THOMSON, Petitioner.

No. 5.  
Iron Manu-  
factory with-  
in Burgh a  
nuisance.

THE petitioner, for the purpose of establishing an extensive iron manufactory, purchased certain houses situated at the south back of the Canongate of Edinburgh, which had formerly been possessed by the Commissioners of the Customs as coach-houses and stables. These buildings are nearly 600 feet from St John Street, and lie to the eastward of the road to St. Leonard's Hill.

At the southern extremity of the property (which is bounded by the south back of the Canongate,) the petitioner erected a furnace for melting pig iron. This furnace was worked by a cylinder, and not by bellows, so that the production of smoke was comparatively small.

Sir John Stewart, Mr. Haig, and others, proprietors in the vicinity, presented a bill of suspension and interdict to have this furnace and manufactory removed as a nuisance; and 'the Lord Ordinary (Woodhouselee) having considered 'this bill, with the answers and replies, passed the bill, and granted the interdict as craved.'

The petitioner reclaimed to the Court; and pleaded,

1<sup>st</sup>, That the alleged nuisance was not of an intolerable kind, was not dangerous to the properties, and did not in any considerable degree impair the comfort and security of the neighbourhood.

2<sup>d</sup>, That this part of the town was the situation of nuisances, the common sewer of that district of the city disgorged itself in this quarter; and nuisances of all kinds, breweries, bakehouses, dunghills, currying-shops, and tan-yards, were frequent in the vicinity.

But the Lords refused the petition, and remitted to the Lord Ordinary to pass the bill.

Lord Ordinary, *Woodhouselee.*

Act. *John Clerk.*  
*Buchanan, Clerk.*

*Alex. Glen, W. S. Agent.*

*J. W.*

*Fac. Coll. No. 19. p. 50.*

1808. *July 5.* MRS. CHARITY and Others *against* WILLIAM RIDDELL.

No. 6.  
A glue work,  
although in a  
district of the  
burgh which  
had been oc-

THAT quarter of the town of Glasgow on the south side of Bridgegate Street, included within Bridgegate Street on the north, Slaughterhouse Lane on the south, Cow Lane on the west, and Merchant Lane on the east, has been

for time immemorial occupied and frequented by tan-pits, glue-works, soap manufactories, carriers shades, and skinneries, and the slaughter-house of the city—all nauseous manufactories, of which the vicinity has been in contemplation of law considered to be nuisances.

In the projected improvements of the city likewise, for which a bill had passed through Parliament, a considerable portion of this district was to be occupied by, and converted into great public *slaughter houses* for the accommodation of the town.

In this district the pursuer and defender possessed contiguous properties.

The property of the pursuer consisted of a range of houses lately rebuilt, and forming commodious dwelling houses.

The property of the defender lay adjacent and parallel, and consisted of a dwelling-house, then a bake-house, and then, at the remote end of the tenement, a glue-work.

The two tenements were separated by a narrow common area. The glue-work had subsisted for many years; but it was opposite at one end only to a small part of the pursuer's property.

In this relative situation of the respective properties, the defender proceeded to make an addition to the glue-work, equal to, or surpassing in magnitude, the old manufactory, which would have been adjacent to the greater and more valuable part of the pursuer's dwelling-houses, would have increased the extent and violence of the nuisance formerly existing, and brought it nearer to the pursuer's dwellings. The pursuer and certain other proprietors, with concurrence of the procurator-fiscal, instituted a process before the Dean of Guild court, concluding for an interdict against the defender. A remit was made to two medical gentlemen, Dr Robert Cleghorn and Mr. Coupar, to ascertain whether the vicinity of a glue-work was deleterious to health. The report was in the following terms:

‘ Though the manufacture of glue, like every other in which animal substances are exposed to a boiling heat, may occasionally emit a smell somewhat offensive, and can in no case be a desirable object in a neighbourhood, yet when the process is properly carried on, with strict attention to cleanliness, and particularly to the removal of all filth and refuse before it has advanced to the high degree of putrefaction, a thing quite practicable, but not always attended to so much as it ought to be, we know no fact, either from the nature of the process, or from the experience of the workmen, whence it can be justly inferred that the manufacture of glue is hurtful to the health of a neighbourhood.’

(Signed) ‘ ROB. CLEGHORN, M. D.  
‘ WILLIAM COUPAR.’

No. 6.  
cupied and frequented for time immemorial by various kinds of nauseous manufactories, was so far declared to be a nuisance that it could not be placed nearer the dwelling-houses and streets than it had formerly been.

No. 6. A report was likewise made by the town-clerks, touching the law of the case.

The Dean of Guild then pronounced the following interlocutor (8th October 1807 :) ‘ Finds that the glue-work proposed to be erected by the defender, although not necessarily hurtful to the health of the inhabitants in the neighbourhood, will render the enjoyment of life and property uncomfortable to the inhabitants, and will lessen the value of the adjacent tenement ; and therefore finds the said proposed erection is a nuisance ; continue the interdict formerly granted ; and decern.’

The case was brought by advocacy before the Lord Justice Clerk, Ordinary, who advocated, and remitted to the Dean of Guild to alter the interlocutor, and recall the interdict ; and, on reconsidering the case, pronounced the following interlocutor (11th March 1808 :) ‘ In respect it appears that the pursuer’s tenement is in the immediate vicinity of the great public shambles of Glasgow, and of several other glue-works, as well as skimmers yards, candle-works, soap-works ; finds that the proposed small addition to the respondent’s glue-work cannot materially increase either the danger or inconvenience which must already result to the pursuer’s tenements from the above neighbourhood ; and in respect that it appears that this quarter of the town, from time immemorial, has been frequented by works and manufactures of the above description, refuses this representation.’

The cause came before the Inner-House by petition and answers.

Some of the Judges were of opinion, that as this manufactory, and many others almost as nauseous, had immemorially existed in the vicinity, and as this quarter of the town had been appropriated to manufactures, which, however nauseous, are nevertheless necessary to every civilized community, the interlocutor of the Lord Ordinary ought to be adhered to. Besides, as the defenders had right to, and the pursuer had acquiesced in the establishment of a glue manufactory in the vicinity of her dwelling, the former must be entitled to extend it according to the increase of his trade. But a great majority of the Court differed in opinion from the Lord Ordinary ; and observed,

A glue-work is a very intolerable nuisance, more nauseous than any other manufacture of which the materials are composed of animal matters, that of Prussian blue, perhaps, excepted. The previous existence of other and similar nuisances in the vicinity does not warrant the introduction of new, or the material extension of old, nuisances. The proposed addition, however, would increase the extent of the former manufactory, and bring it nearer to the dwelling of the pursuer. That, from acquiescence, or other causes, several nauseous manufactories had been created in the neighbourhood, beyond the power of legal interference, formed no ground for concluding that the pursuer is bound to submit to the establishments of others more extensive in size, and

therefore more nauseous, aggravated, and virulent in their nature. No doubt the circumjacency of the different manufactures has rendered these houses less agreeable to inhabit, has diminished the value of the property, and the acquiescence of the pursuer or her authors in these, now debars complaint. But to permit the extension and nearer approach of these at the pleasure of the manufacturers, would reduce the value of the tenement to nothing, and drive the pursuer altogether from her residence.

The Court pronounced the following interlocutor (11th June 1808 :) Alter ' the interlocutor of the Lord Ordinary reclaimed against, and remit to his ' Lordship to remit the cause simpliciter to the Dean of Guild of Glasgow, but ' find no expenses due to the petitioners.'

On advising a petition, without answers, the Lords adhered (5th July 1808.)

Lord Ordinary, *Justice Clerk.*

Act. *John Jardine.*

Alt. *Ro. Forsyth;*

*Jo. Mackenzie and A. R. Millar, W. S. Agents.*

*B. Clerk.*

*J. W.*

*Fac. Coll. No. 65. p. 237.*

\* \* See the case of Ferguson and others against Fall, 9th March 1776, APPENDIX, PART I. *voce* JURISDICTION, No. 1.

No further particulars of the case No. 22. p. 13181. have been discovered.