

bitants from buying wine, coals, victual, timber, pitch, tar, lint, and other goods, coming to Leith by strangers, until first they make entry in the town's books, and shall be controlled there, and other officers be satisfied for the King's use; and also decerning the said inhabitants from all buying, killing of herrings, selches, and other fishes coming within Leith, and peeling and salting of the same, and sending the same into England or other foreign parts.

Kerse, MS. (BURGH.) fol. 17.

No 46.

1522. *January 24.*

Same Parties.

INHABITANTS of Leith to desist and cease from all buying of prize goods coming in in prize ships, but to be bought by burgesses of Edinburgh, and from men thereof.

Kerse, MS. (BURGH.) fol. 17.

No 47.

1628. *March 21.* The WEAVERS, FREEMEN in Stirling, *against* UNFREEMEN.

IN an action at the instance of the websters, freemen in Stirling, with concurrence of the agent for the burghs, against certain unfreemen, for exercising of the craft within that burgh, and discharging them thereof, the Lords sustained the pursuit; for the same was founded upon acts of Parliament, James VI., even against such as dwelt within the privilege and liberty of the Castle of Stirling, which was the King's House; albeit they alleged, that the acts of Parliament struck only against such as dwelt within the suburbs of towns, and so could not extend to them who were tenants to the King, and dwelt within the territories and jurisdiction of the King's house, which could not be called a suburb, which was repelled; but the Lords declared, that this discharge extended only to prohibit them to work within the town, and not to stay them to work within their own dwelling-houses.

Act. ———

Alt. *Hope.**Hay, Clerk.*

Fol. Dic. v. J. p. 118. Durie, p. 365.

No 48.

Craftsmen, unfreemen, cannot exercise their trade within burgh; but may work in their own houses in the suburbs.

1632. *July 31.* M'KORINNOCH *against* JOHNSTON.

ONE M'Korinnoch, burghess and indweller in Kirkcudbright, pursues the relict of umquhile ———, who was also burghess, and died in that town, the relict also being still dwelling in that town, before the Sheriff of the sheriffdom, to make payment to him of certain prices for particulars furnished to her, extending to six or seven score pounds, and whereof she promised him payment; whereupon having obtained sentence before the Sheriff, and thereupon charging her, she

No 49.

Burgesses may convene one another before the Sheriff of the county.

No 49.

suspends upon this reason, That she being a burghess' wife of the King's burgh royal, and still residenter there, as the pursuer also was, and a burghess of that town, she could not be convened but before the provost and bailies of their own burgh, they being both *conceives*, and the Sheriff was not judge to her, nor she holden to answer to that court. This reason was not respected, but the letters were found orderly proceeded notwithstanding thereof; in respect the LORDS found, That the burghesses of burghs royal might be convened by con-burghesses before the Sheriff, as well as before their own magistrates of burgh, albeit the burghs were also sheriffs within themselves; for they were not privative, but cumulative judges.

Upon the last day of March 1636, this was controverted in a cause betwixt Coutts and Coutts, cook in Edinburgh, where the master being pursued by the servant for his fees, before the Sheriff of Edinburgh; and the master desiring advocacion, because he was a burghess of Edinburgh, and therefore ought either to be judged in their court, as their burghesses, especially seeing they were sheriffs within themselves, or else advocated to the Lords; which reason the Lords inclined to sustain, but delayed to decide it until June next thereafter.

Clerk, *Gibson*.

Durie, p. 65e.

1663. *January 30.*

TOWN OF LINLITHGOW *against* INHABITANTS OF BORROWSTONESS.

No 50.

Burghs-royal may summarily sieze upon staple ware of unfreemen, and judge regarding it; but cannot summarily incarcerate, having the privilege only of charging to find caution.

THE TOWN of Linlithgow having apprehended an inhabitant of Borrowstoness, in their town, being an unfreeman, and exercising the trade of merchandise, they put him in prison; he granted bond to forbear in all time-coming: Likeas they fined him in 100 merks; he suspended, and raised reduction, on this reason, that the bond was extorted, when so far as he was summarily taken, and put in prison, and could not get out till he promised to give the bond, and immediately after he was out, subscribed the same.—The charger *alleged*, There was no unjust force or fear, because, by the acts of Parliament in favour of free burghs, all unfreemen are discharged to exercise the trade of merchandise; whereupon they had obtained decret against the same suspender to desist and cease therefrom. *2dly*, They, and all other free burghs, had immemorially possessed this privilege, to apprehend persons found within their town; and forced them to find caution as law will, upon debt due to any in the town, and, particularly, to put them in prison till they give such bonds in surety as this.—The suspender *answered* to the first, There was no such warrant by the act of Parliament, but only to charge, with general letters, unfreemen to find caution; and for the privilege of burghs, to arrest unfree persons within their towns, it is only in case of debts, and other merchandises, due to burghesses, but cannot be