

are of so huge a quantity, that they cannot be transported by land ; and by sea its thirty-six miles betwixt Aberdeen and Fraserburgh, (where the charger dwells,) and the seas are now troublesome. *3tio*, The suspenders were ever, (as they are likewise now,) most willing to redeliver them, as appears by an offer thereof made by them to Philorth in 1652, and instruments taken thereupon that he refused. *4to*, In case of their not delivery of the tuns themselves, offer the value and prices of them, as they shall be liquidated by indifferent and judicious men, they being really worth L.2000. *5to*, The charge is general, and so no obedience can be given thereto ; it condescends not on the pertinent ; it condescends not on the manner how they should be delivered, nor the place whereat, &c.

The Lords find the letters orderly proceeded ; ordain them to be redelivered to Philorth ; supersede execution till the 1st of June next to come.

*Act.* for Philorth, Pat. Fraser.

*Alt.* Sir Thomas Wallace.

*Signet MS. No. 89, folio 64.*

1665. *February 20.* TOWN of EDINBURGH *against* SIR WILLIAM THOMSON.

THE Council of Edinburgh, without the concurrence of the crafts and their extraordinary deacons, having deposed Sir William Thomson, their clerk, for this fault, that the excise of their Town being farmed to three or four brewers by way of tack and contract, wherein the Council subscribes their part of the tack, and remits to Sir William to see the fermorars subscribe for payment of the duty, and he neglecting to get their hands thereto by the space of year and day ; and at the expiring of the tack the fermorars craving ease of the duty, and being threatened with a charge of horning, the town finds the tack not subscribed ; and they having ordered Sir William to see it done, and committed it to him by an act of their council ; they representing to him his fault, he submits his censure to the council, who immediately deposes him, without either citation, libel, or any other solemnity : he thereon raises reduction, upon four reasons, which are set down at large in the informations.

The Lords, at the advising of the cause, fell, *1mo*, on the relevancy of the cause of his deposition. After some debate anent the method to be observed, they found the cause of his deposition relevant, unless he could prove the tacks were yet subscribed. The reasons moving the Lords were, *1mo*, That so great a neglect was a presumption of dole on Sir William's side, though he offered to make up the damage sustained by the town through the fermorars their not subscribing. And, *2do*, they thought that though the way of procedure was somewhat illegal against a clerk, provided *ad vitam* to his place, yet that *multa fieri non debent quæ facta valent*, especially betwixt a master and a servant. The dispute I have at large.

*Act.* Wedderburne, Sinclar and Lockhart.

*Alt.* Wallace, Cunnyghame and Mackenzie.

*Advocates' MS. folio 53.*