

1783. February 28. PATERSON *against* MAGISTRATES OF STIRLING.

No 106.

THE LORDS sustained their own jurisdiction to make regulations for the public markets of a burgh royal, and to alter those made by the Magistrates.

Fol. Dic. v. 3. p. 344. Fac. Col.

* * * This case is No 107. p. 1997, *voce* BURGH ROYAL.

1783. December 9. The SHERIFF-CLERKS, Petitioners.

THE fees of the officers in the Sheriff-courts were regulated by the law of Malcolm, c. 7; and by an act of the Privy Council, with the concurrence of the Court of Session, in 1606, confirmed by a statute in 1621, c. 12; when a power was granted to the Privy Council to ascertain such fees as had been omitted, and their determination declared equivalent to an act of Parliament.

Upon the abolition of the heritable jurisdictions, authority was given, by act 20th Geo. II. cap. 43, to the Court of Session, on or before the 25th of March 1748, to fix, by one or more acts of sederunt, the dues exigible by those employed in the circuit, Sheriff, and Stewart courts, which should not be altered but by act of Parliament; which acts of sederunt were accordingly made.

These regulations the Sheriff-clerks thought incomplete and inadequate. They complained, that while some articles of employment were omitted altogether, or rated below their proper value, expedients had been fallen upon to evade even the established fees. Thus, it was said, that the fees payable at the enrolment of freeholders had never been mentioned; that the rate of the dues of extract, which had been proportioned to paper of an ordinary size, was become much too low, by the increased dimensions of that now in use, calculated to diminish the expense of the stamp-duties leviable by government; and that the hypothec for their dues competent to them on the papers lodged in Court, had been eluded, by the parties obtaining advocations to the Court of Session, the whole vouchers being in this manner taken out of their hands.

All these different grounds of complaint were enumerated in a petition for the Sheriff-clerks, in which they craved the authority of the Court of Session for exacting their dues in future according to tables proposed by them.

Upon advising this petition, the LORDS ordered a hearing on the competency of the Court of Session to make ordinances of this sort; when it was

Pleaded for the Sheriff-clerks; It were equally absurd, that dues of this kind should be capable of ascertainment by the legislative authority only, as that they should be left, in every instance, to the covenant of parties. The cognizance of such matters, therefore, must be lodged in the supreme judicatories, who are authorised to find a remedy for every wrong, and in a peculiar

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Found, that the acts of sederunt, regulating the dues of officers in inferior judicatories, cannot be altered but by parliament.