

serve any in the landward, but might not come within the liberties of the burgh, for taking up the work of the burgesses, in prejudice of the freemen who were freemen of the burgh.

No 53.

*Fol. Dic. v. 1. p. 118. Stair, v. 1. p. 655.*

1671. July 5.

The LAIRD of POLMAISE *against* The DEACONS of the CRAFTS of the TOWN of Stirling.

THE craftsmen of St Ninian's, belonging to the Laird of Polmaise, being charged upon the act of Parliament anent unfreemen, made in favour of burghs royal, did suspend and raise declarator against the said craftsmen, upon this reason, That they dwelt within the town of St Ninian's, which was about a mile distant from the town of Stirling, and did lie locally within the barony of Polmaise, and so could not fall within the act of Parliament, which did only prohibit unfreemen, which dwelt within the suburbs next adjacent to royal burghs.—It was *alleged*, That the said town of St Ninian's lying so near to the town of Stirling, their declarator could not be sustained, but with that quality that the tradesmen there should not work any manner of work to the burgesses of Stirling, otherwise they would be prejudged of the *bona fides* of the act of Parliament in favour of the freemen in the town, upon that special consideration, that the royal burghs are liable in the sixth part of all King's taxations, and their inhabitants to watch and waird; for which cause all manner of workmanship ought to be done by their own trade.—THE LORDS, notwithstanding, did sustain the declarator, and suspended the letters simpliciter; and did find, that the tradesmen within royal burghs, might make such acts as they pleased for seizing and confiscating all manner of workmanship belonging to the burgesses, which are made without the town by unfreemen, when the same should be imported; but that such acts could not extend against tradesmen living within any town belonging to a barony, or other heritors, over whom they had no jurisdiction, but were free to serve any person that would employ them, they not carrying their workmanship within the town, nor being residents within the suburbs thereof.

*Fol. Dic. v. 1. p. 118. Gosford, MS. p. 180.*

1671. July 7.

LAIRD of Polmais *against* The TRADESMEN of Stirling.

THE tradesmen of Striveling having charged and troubled the Laird of Polmaise's tenants, about St Ninian's kirk, upon the act of Parliament, prohibiting workmen to exercise their trades in the suburbs of royal burghs, Polmaise raised a declarator for freeing of himself and his tenants of the said charges, and that they might freely exercise all their trades, especially about the kirk of St Ninian's, which is about a mile from Striveling; which being disputed, and it condescended upon, that

No 54.

Found, that a craftsman living within a burgh of barony, may work to a burgh of a burgh royal, or any one; provided he carry not his made work within the burgh royal to be sold there.

No 55.

Found not to be suburbs, at the distance of a mile from the royal burgh.

No 55.

St Ninians being a mile from Striveling, could noways fall under the act of Parliament, and could not be interpreted a suburb, being noways adjacent to the town.

THE LORDS found the declarator and condescendence relevant, and decerned.

*Fol. Dic. v. 1. p. 119. Stair, v. 1. p. 750.*

1676. December 7.

TOWNS of GLASGOW and DUNBARTON *against* The UNFREEMEN of GREENOCK.

No 56.

An unfreeman importing goods into a burgh royal, the penalty is confiscation, if found in the importer's possession; if out of his possession, action for the value is competent.

A burgh of barony can import the particulars allowed by statute, and no other; otherwise it would encroach on the privileges of royal burghs.

THE TOWNS of Glasgow and Dunbriton, pursue a declarator against the inhabitants of the burgh of barony of Greenock, for declaring, ' That it is the privilege of the royal burghs only, and not of the defenders, inhabitants of a burgh of barony, to import brandy, or salt; and that by importing thereof, the escheat of the importer's moveables falls to the burgh discoverer.'—The defenders *alleged, imo*, That it is the common privilege of strangers to import all commodities, making offer thereof to the burghs-royal, which cannot be refused to the King's subjects; and by the 100th act of King James V. it is declared, ' That all goods imported by freemen, or others his Majesty's subjects, shall be first offered to burghs-royal, and rates put thereupon.' Which act is ratified by Queen Mary, and accordingly hath been in constant custom. *2do*, By the late act of Parliament, anent the privileges of royal burghs, ' it is allowed to burghs of regality or barony to export the native growth of the kingdom;' which imports, that they may bring home all that is necessary for that export, and therefore may import salt and trees, without which they can neither export salmon, herring, beef, nor hides. *3tio*, By the said late act, *they are warranted to import all commodities usual for their manufactures*: And the curing of fish being a manufacture, they may import salt for that end, and are content to declare, That they shall not apply it to any other use; so that the burghs-royal may still enjoy the privilege of importing and selling of salt for all other uses; and if those who take fish for export, cannot have salt but from royal-burghs, that great interest of the kingdom by fishing, would be evacuate and monopolized to the burghs-royal; for they may, and have combined to sell no salt, or other commodities to the defenders, or any others as they please; or may sell it at such rates as their burgesses may easily undersell all others, and disable them to trade in fishes, which is the chief kind of growth of the kingdom, comprehending the rivers, lochs, and seas adjacent. *4to*, As to the penalty, the late statute being made of purpose to regulate trade, and having corrected all the former exorbitancies, it has particularly ordered the penalty of transgressors, both as to the matter and manner, viz. ' That where goods are imported by unfreemen, and are apprehended in the importer's hands within the burghs, their suburbs, or ports, they may be seized summarily, and confiscate, the one half to the King, and the other half to the burgh. And where they