

F I S H E R S.

1696. July 31.

REID, BEVERLY, &c. against The LAIRD of WOODNEY, &c.

R EID, Beverly, and some fishermen upon Don, having entered into a tack with the Laird of Woodney, they are also claimed by Forbes of Foveran, on this ground, that they are born in his land, and so were as much *glebæ addicti*, and astricted to live there as coaliers and salters, and could not to his prejudice remove, and by tack oblige themselves to another.—*Answered*, The liberty of the subject is *juris naturalis*, and slavery is not introduced, but either by paction or special statute; and there being one for coaliers, and none for fishers, it clearly determines the case; but it being alleged there was a general custom that had prevailed in the north astricting these men to the ground where they served, the LORDS superseded to give answer, till they enquired farther thereanent.

No 1.

Found, that there is no law astricting fishers to the ground where they are born.

February 17. 1698.—I reported the Laird of Woodney against Reid, Beverly, and Bruce, his fishermen, and Forbes of Foveran, claiming them as master, mentioned 31st July 1696. Woodney claimed them as bound to serve in his boat by a tack passed between them. Foveran contended they were born on his ground, and so by the custom of all the coast-side were *glebæ adscriptitii*, and could not hire themselves to another without his consent, no more than coaliers or salters may do.—*Answered*, *Esto* they were astricted, yet it is a contract *ex utraque parte obligatorius*, and if you want a boat, then I am free to go and serve where I please; and it is a direct manumission from the servitude when you have no work to give me. And coaliers are tied by an express statute, whereas there is none in the case for fishers; and even the 11th act of Parliament 1606, anent coaliers, declares, That their former master cannot re-vindicate nor seek them back, unless he do it within the year after the deserting his service; *ita est*, these fishers, though originally born in Foveran's ground, yet have been these

No 1. many years out of his service, because he kept no boat:—THE LORDS finding there was no law astringing fishers to the ground where they were born, and that the custom was not general, but only in some particular places, they condemned it as a *corruptela* and unlawful, and tending to introduce slavery, contrary to the principles of the Christian religion, and the mildness of our government; and found the fishers free to engage with whom they pleased, and so preferred Woodney.

Fol. Dic. v. 1. p. 312. Fountainball, v. 1. p. 732. & 825.

See COALIERS.

See SALMON FISHING.

See APPENDIX.