

1778. July 28.

MASTER-TAILORS of Edinburgh *against* The JOURNEMEN-TAILORS.

THE Justices of Peace of Mid-Lothian, upon an application from the Master-tailors of Edinburgh, enacted regulations, by which the houses of call for journeymen out of employment were put under certain restrictions; and every such journeyman was obliged to work with any master who should offer to employ him, at one shilling a-day of wages. Master-tailors were likewise prohibited from giving more wages, under a penalty.

The journeymen being discontented with these regulations, brought them under review by a suspension, as impolitic in themselves, and as *ultra vires* of the Justices.

*Pleaded* for the Master-tailors, The Justices of Peace are ordained, by the act 1617, c. 8. "to set a price on craftsmens work." And, by act 1661, c. 38. "to appoint prices for all handicrafts," &c. Under these expressions in the two statutes, the Justices have power to regulate wages of journeymen in every trade. By price, *wages* are understood, and the handicraft is the person who works at the trade.

Though the words of the statutes were to be explained, as ordaining them to fix the price of made work, the power of rating the wages of workmen must be considered as implied and included under it.

The Scots Justices of the Peace have the powers of the English, in matters of police, conferred on them, (stat. 6th An.) who are entitled to regulate the wages of journeymen, act 5th Eliz. c. 4. § 15. and 1st Ja. c. 6. The practice, accordingly, is, that Magistrates, as Justices of Peace within their boroughs, are in use to regulate the wages of journeymen.

*2do*, The regulations are proper. It is necessary to fix the *maximum* of wages, in order to prevent imposition, and the effects of combination among journeymen to raise their wages. At the same time, the more expert tradesmen will not suffer, as they can always, by piece-work, earn wages according to their merit. The other regulations were necessary, for the execution of those relative to the wages.

The chargers likewise suggested, that the Court were not competent to review these regulations, as being made by the Justices, in consequence of powers delegated to them by statute.

*Answered* for the suspenders, *imo*, The imposing of regulations is a matter of extraordinary jurisdiction, which can be assumed by no Magistrate, unless conferred by explicit and clear enactment of statute. The acts 1617 and 1661 do not confer on the Justices any authority to fix the wages of mechanics, which could not, with any propriety, have been subjected to a general rule, as the value of their labour must differ so widely, according to the skill

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The Justices of Peace have power to fix the wages of journeymen tailors within burgh.

No 337. of the mechanic in his art. Except in so far as respects country-labour, these statutes are solely relative to the price of made work. This is the obvious meaning of the words, and was the object of police at the time. From the 1462, down to the period of these acts, a number of statutes are found for regulating the price of made work; Ab. of Stat. v. Police; but none for regulating the wages of journeymen.

The statute 6th Anne, c. 5. gives the Justices of Peace in Scotland the powers of the English, only in as far as relative to the preserving the peace. But, at any rate, the English Justices have not the powers here contended for; Blackstone, b. 1. c. 14. § 2. and Burn, *voce* Servants. It was denied that country Justices ever, in practice, assumed the power of making regulations of this kind for artisans.

*2do*, Although the Justices had been vested with sufficient powers, the regulations themselves being impolitic, ought not to be supported. Restrictions on the price of labour are contrary to the principles of sound policy, and defeat the purpose for which they are intended. Exceptions were likewise taken to particular articles, concerning the houses of call.

The Court were of opinion, that they were competent to review the proceedings of the Justices of Peace in this case, and that the Justices have sufficient authority to make regulations, fixing the wages of mechanics.

“THE LORDS repelled the reasons of suspension, and found the letters orderly proceeded, without prejudice always to the journeymen-tailors to apply to the Justices of the Peace, when they can show cause why any proper rectification or alteration in their present regulations ought to be made.”

Act. G. Ferguson.

Alt. Erskine.

Fol. Dic. v. 3. p. 359. Fac. Coll. No. 37. p. 64.

1782. August 7. JOHN NAPIER, &c. against WALTER ROBISON, &c.

No 338.

The Justices of the Peace have not the power of shutting up one of two public roads, though that which is left is the most convenient, and sufficient to answer the purposes of both.

NAPIER instituted a process of reduction of a decree of the Justices of the Peace of Stirlingshire, by which they had ordained a road to be shut up, which led, by a place called Mildavie, through the grounds of Mr Robison and the other defenders, to the highway between Glasgow and the country westward of Strathblane; whilst another road, deemed more convenient, passed by Edinakiln-bridge to the same great road.

It appeared, that the first mentioned road, as well as the other, had been immemorially possessed by the public; and, therefore, the Court, as in the case of Turner against Duke of Roxburgh, 14th June 1749, No 322. p. 7605., and more lately in that of Spottiswood of Dunnipace,\* were of opinion, that, whether the road in question was more or less convenient than

\* Examine General List of Names.