

1796. *January 15.*The CORPORATION of BAKERS at Haddington *against* DAVID BEGBIE.

JAMES LEE, son of a discharged soldier, lived with and was maintained by his uncle, David Begbie, shopkeeper at Haddington, who, when Lee was only twelve years of age, set him up as a baker in that burgh.

The Corporation of Bakers complained of this to the Trades-bailie, who called before him Lee, Begbie, and a journeyman employed by them. From their declarations it appeared, that the whole expence was defrayed by the uncle; that the bread was baked by the journeyman, assisted by the boy's aunt, and sold in the uncle's shop; and that the boy himself, who was at school, took no other charge of the business than occasionally selling the bread at his leisure hours: The uncle farther declared, that, though no bargain had been made on the subject, the profits were to be applied to the boy's use.

The Bailie prohibited them from carrying on the trade, and afterwards imprisoned Begbie till payment of a fine imposed on account of his disregarding the prohibition.

Begbie presented a bill of suspension and liberation, which was passed.

'The LORD ORDINARY found, That the said James Lee had no title to assume the profession of a baker in the burgh of Haddington, being a boy between twelve and thirteen years of age.'

In a reclaiming petition, it was

Pleaded: The statutes exempting discharged soldiers, and their children, from the exclusive privileges of corporations, contain no limitation as to the age of the person entitled to their benefit; 12th Cha. II. c. 16.; 12th Ann, ses. 1. c. 13.; 24th Geo. III. ses. 2. c. 6.; and, from their nature, they ought to receive a liberal interpretation. A wounded soldier might carry on trade by servants; and upon the same principle, a soldier's son may do so with the assistance of his relations, provided the trade be conducted for his behoof.

THE COURT were of opinion, That as Lee was not of an age to carry on trade himself, his name must be presumed to be used by the suspender as a cover for evading the privileges of the Corporation.

THE LORDS refused the petition without answers.

Lord Ordinary, *Swinton.*
D. Douglas.

For the petitioners, *Cullen.*

Clerk, *Gorden.*

Fac. Col. No 194. p. 467.

* * * See Bailie of Borrowstounness against Tradesmen there, 19th January 1694, Fountainhall, v. 1. p. 594. *voce* PUBLIC BURDEN.

Donaldson against Grant, 13th January 1758, *Fac. Col. No 86. p. 150. voce* HYPOTHEG.

Hay against Bailies of Aberdeen; Durie, p. 730. *voce* SUPERIOR and VASSAL.

Town of Stirling against Town of Falkirk; Stair, v. 2. p. 48. *voce* PROCESS.

No 122.

Trade carried on in name, and, as it was said, for behoof of the son of a discharged soldier, who was only twelve years of age, found to be an evasion of the exclusive privileges of the Corporation.

Town of Glasgow against Town of Dumbarton; Stair, v. 1. p. 349. *voce* PRESCRIPTION.

Boswell against Town of Kirkaldy; Stair, v. 1. p. 558. *voce* PRESCRIPTION.

Duff and Brown against Forbes; Stair, v. 2. p. 23. *voce* PROOF.

Urquhart against Clunes, 17th January 1758.; Fac. Col. No 89. p. 158. *voce* SUPERIOR and VASSAL.

Banks against Jaffray, 6th June 1792; Fac. Col. No 215. p. 451. *voce* OATH, to Government.

Skene against Rose, 17th June 1794, *voce* JURISDICTION.

Forbes against Bailies of Aberdeen; Durie, p. 22. *voce* PRISONER.

Williamson against Hagie; Durie, p. 779. *voce* FORUM COMPETENS.

Paterson against Magistrates of Stirling, 1st March 1775; Fac. Col. No 166. p. 59. *voce* FACTUM ILLICITUM..

Administration of the Common Good, *See* COMMUNITY.

Inhabitants of Royal Burgh liable for statute work, *See* PUBLIC POLICE.

Streets of a Burgh, *See* REGALIA.

Powers of Court of Session to regulate the markets, &c. of Burghs, *See* JURISDICTION.

Complaints against Magistrates for malversation, &c. *See* JURISDICTION.

Actio Popularis against Magistrates, *See* TITLE TO PURSUE.

Privilege of arresting for merchant-compts, *See* FORUM COMPETENS.

The Trade of a Royal Burgh liable in payment of part of the Cess, *See* PUBLIC BURDEN.

Declinator of Magistrates in Burgh-concerns, *See* DECLINATOR.

Infetment of Burgage Lands.—Base Infetment of Burgage Holdings, *See* INFETMENT.

See SOLIDUM ET PRO RATA.—*See* PRISONER.—*See* REPARATION.

Town-Clerk not a Magistrate, *See* PUBLIC OFFICER.

See APPENDIX.