

No 145.

exact so
much for
the Sheriffs-
gloves.

of man. It was *alleged*, There was nothing produced to make the defenders liable in payment of the Sheriff-gloves; and use of payment is not relevant to make liable, except the pursuer would condescend that he had right to the Sheriff-gloves.—THE LORDS repelled the defence, and sustained process for the Sheriff-gloves, the pursuer always proving his immemorial possession. See No 149. p. 10892.

Fol. Dic. v. 2. p. 110. Newbyth, MS. p. 37.

1666. February 10.

No 146.

The MINISTER of NORTH LEITH *against* MERCHANTS of EDINBURGH.

THE Minister of North Leith having pursued some Merchants in Edinburgh, importers of herring, of dry fish, killing, and ling, at Leith and Newhaven, to pay 20 shillings of the last of herring, and the 20th part of the killing and ling; it being *alleged*, That such a burden could not be allowable, because the teinds were taken where the fish was taken; *2dly*, That it could only reach the parishoners of North Leith, not the merchants of Edinburgh; and, *3dly*, That they had frequently traded free of such a burden.

THE LORDS having ordained the pursuer to adduce evidences by writ or witnesses, what possession they had, and the defenders what liberty they had; and having heard the testimonies of the witnesses, with an old decret for the same particulars, but not against the merchants of Edinburgh, nor for dry fish, they found 40 years possession proven of the said burden, and therefore decerned.

Fol. Dic. v. 2. p. 110. Stair, v. 1. p. 354.

1668. July 22. JOHN BOSWELL *against* The TOWN of KIRKCALDY.

No 147.

A proprietor
of burgh
acres found
liable on ac-
count of im-
memorial
usage, to pay
stipend to a
second mini-
ster, although
he paid his
whole teind
to the first.

JOHN BOSWELL having some acres in the town's lands of Kirkcaldy, and some houses in the town, but not dwelling within the town, or parish, nor using any trade therein; pursues the town as having unwarrantably stented him for his stock and trade, he not dwelling in their burgh; *2dly*, For unequal stenting him as to his lands; *3dly*, For stenting him for the town's debts, as for the sums paid for their erecting harbours, and some teinds they bought; *4thly*, For stenting him for the second minister's stipend, whereas he paid the whole teind to the first minister, nor dwelt he in the parish, nor consented to a second minister, or to his stipend, and for unwarrantable quartering on him and his tenants, and this since the year 1644. It was *answered* for the defenders, That they denied stenting of the pursuer, for any stock or trade, seeing he was no inhabitant; or that they quartered on him unwarrantably; but *alleged* there was now no ground after so long a time, to quarrel the inequality of their stent rolls, which were made by 15 sworn men, especially after so long a time; for