

BURGH OF BARONY.

1623. July 19.

SALMOND *against* LINDSAY.

IN a suspension, Salmond *contra* Duncan Lindsay, the LORDS found a decret given by the Bailies of Leith, against one who became cautioner for another person, who was arrested by the said Bailies, to answer for him as law will, to be null, summarily by way of suspension, because the Bailies of Leith were but Bailies of a burgh of barony; and the LORDS found, That the privilege to arrest or incarcerate any person, while caution was found to answer as law will by them, was only introduced in favour of burgesses of free burghs royal, whose magistrates might only do the same, and that that privilege was not competent to any burgh of barony, or any other magistrate in other places, which were not erected with the privileges of burghs royal. See BURGH ROYAL.

Durie, p. 75.

No 1.

Found, the magistrates of a burgh of barony had no power to incarcerate till caution be found.

1630. February 4. TOWN of EDINBURGH *against* TOWN of LEITH.

IN a suspension of charges, executed against the town of Leith, for selling and tapping out of wine in small, contrary to the tenor of the act of Parliament, James IV. Parliament 6th, made in favour of royal burghs, which prohibits the same:—THE LORDS sustained the charges upon that act, albeit it was alleged, that it was past in disuetude, and a constant contrary consuetude observed, and that it was a prejudicial act to the commonwealth, to prohibit the selling of wine and other vivers in land-ward, claugh-lands, and burghs of barony, and other villages where the King's lieges do repair and lodge; seeing it is also commanded by act of Parliament, James V. Parliament 4th, That all villages be well furnished with provision for lodging of the King's subjects. Notwithstanding whereof the charges were sustained, for this reason, viz. not only in respect of the privilege of burghs royal, but also because Edinburgh was baron of Leith, and the inhabitants within the barony ought to have liberty of their superior for

No 2.

A burgh of barony found to have no right to sell or tap wine; a privilege competent only to royal burghs.