

1623. July 19.

SALMON *against* LINSAY.

No 94.

THE privilege belonging to royal burghs of arresting strangers, till caution be found for payment of accounts contracted within the burgh, is competent to royal burghs only, not to the inhabitants of burghs of barony.

Fol. Dic. v. 1. p. 119.

* * See This case *voce* BURGH of BARONY, No 1. p. 1823.

1626. March 1.

— *against* TOWN of EDINBURGH.

No 95.

IN an advocacy of an action from the town of Edinburgh, the cause being advocated, it was questioned, if the caution found before the Town Court should stand, after the advocacy.—THE LORDS found the caution, found by the party pursued, ought not to stand, seeing the party could not have lawfully urged *ab initio*, to have found that caution by the town of Edinburgh, as their use is, to cause otherwise to be done to burgesses; seeing the party, to whom caution was given, albeit he was their burgher, yet the cause of the debt was not owing to the burgher himself, but only to a stranger, without the jurisdiction, and whereto the burgher was only made assignee; and if that be sustained, every man, by such assignations, might be troubled with finding of caution, in that sort, which were a great vexation, and in itself unreasonable.

Burgesses only, who themselves have been furnishers; not where they are assignees of creditors not burgesses; may arrest strangers for the debt.

Clerk, Scot.

Fol. Dic. v. 1. p. 119. Durie, p. 186.

1667. June 14.

DAVIDSON *against* The TOWN of INVERNESS.

No 96.

THERE being a decret of the dean of guild of Inverness against an unfreeman, unlawing him L. 300 for trading; and a suspension and reduction being raised of the same, upon that reason, viz. that the suspender dwelt without the town's jurisdiction; and that by the acts of Parliament, unfree traders may be charged to desist, and to find caution to that effect; but the town or dean of guild cannot proceed to process or unlash them, there being no such act of Parliament to warrant it; but only to charge (as said is) and to confiscate the goods. The reason was found relevant.

A decree of the Dean of Guild of a royal burgh, unlawing an unfreeman in a sum for trading, found incompetent.

Dirleton, No 79. p. 32.