

extended to this case, where there is a special order set down by act of Parliament.

No 50.

THE LORDS found that the burghs-royal (might seize) summarily upon staple ware of unfreemen, and might judge thereanent; but not summarily incarcerate their persons, but only to charge them; and found their custom and privilege not to extend to this case; and, therefore, found the reason of reduction relevant.

Fol. Dic. v. 1. p. 119. Stair, v. 1. p. 165.

1664. June 24. TOWN of CUPAR against TOWN of KINNOOTHY.

THE town of Cupar having charged the town of Kinnothy to desist from merchant trade, they suspend and *allege*, That they have the privilege of burgh of barony, in keeping hostlers and selling wine.—The charger *answered*, That selling of wine is one of their chiefest and express privileges.

THE LORDS, considering that this dipped upon the controversy betwixt burgh royal and burgh of barony, which has remained undecided these thirty years, would not discuss this particular; but found the letters orderly proceeded in general, ay and while the defenders found caution to desist from merchant trade, without determining how far that reached. *See BURGH of BARONY.*

Stair, v. 1. p. 204.

No 51.

A burgh royal was found entitled to charge a burgh of barony, to find caution to desist from merchant trade.

1669. July 21.

TOWN of PERTH against The WEAVERS of the BRIDGE-END of PERTH.

THE town of Perth pursues the weavers at the Bridge-end of Perth, either to desist from weaving in their suburbs, or otherwise to pay a duty, accustomed to be paid by the weavers there, to the town, for that liberty, conform to the several tickets produced, and that conform to the 156th act, Parliament 1592, entitled, *The Exercise of Crafts within Suburbs adjacent to Burghs forbidden*.—It was *alleged* for the defenders, and Sir George Hay, their master, absolutor, because the said act of Parliament has been in continual disuetude, and was never in use. *2dly*, Though it were yet effectual, yet it can only be understood of such suburbs as have no privileges; but, where the suburbs are contained in any burgh of regality or barony, or within any barony having no burgh, the privileges of these erections warrants the exercise of all craftsmen; so that these websters living within the barony of Pitcullen, cannot be, upon that pretence, hindered from exercising their trade.—The pursuer *answered*, That he opposed the act of Parliament being general; and that it was a standing law unrepealed; and that the obligations of the weavers living there, to pay a duty for their liberty of weaving, did preserve the act in vigour, at least as to this burgh.—The defenders *answered*, That these weavers being in no incorporation, the tickets

No 52.

The act for prohibiting crafts within suburbs adjacent to burghs, found not to apply where these suburbs are within a barony.

No 52.

granted by any of them, could prejudice none but themselves; and, being without the consent of the heritor, cannot infer a servitude upon his barony without his consent, more than his tenants could infer a thirlage without his consent.

THE LORDS found, That the said act of Parliament did not reach to the inhabitants of any barony; and that the tickets of the weavers could not infer a servitude upon the barony; and, therefore, decerned only against the granters of the tickets personally, for the duties contained therein.

Fol. Dic. v. 1. p. 118. Stair, v. 1. p. 643.

* * * The same case is mentioned by Gosford :

SOME weavers dwelling at the Bridge-end of Perth, being charged to desist from their trade at the instance of the weavers of the burgh of Perth; which charge was founded upon several acts of Parliament, and particularly the 156th act of the 12th Parl. King James VI. discharging the exercise of all crafts next adjacent to royal burghs, and that upon a special consideration that the free burghs were only liable to burdens and taxations: There was a suspension raised upon this reason, That the saids unfreemen dwelt within the barony of Pitcullen, belonging to Sir George Hay; and so fall not under the act of Parliament, which can only be interpret of suburbs belonging to burghs royal, either in property or superiority.—THE LORDS did sustain the reason, and suspended the letters simpliciter.

Gosford, MS. p. 74.

1669. December 4.

WEAVERS OF PERTH *against* WEAVERS at the BRIDGE-END OF PERTH.

No 53.
Found, that weavers in suburbs might work to people in the country; but might not take employment from burgesses within the burgh.

The weavers of Perth having pursued the weavers at the Bridge-end, upon the 156th act, Parliament 1592, prohibiting tradesmen in the suburbs of burghs, to exercise their trades, whereof mention is made, July 21. 1669, (*supra.*) the defenders were then assoilzied. Now the pursuers further *allege*, Whereas it was then represented, that that act had never taken effect, but was in desuetude; they now produce a decret of the Lords, at the instance of the weavers of Edinburgh, against the weavers of the suburbs compearing, decerning them to desist and cease from bringing any of their work within the liberties of Edinburgh, and from coming within the same to receive work; and that upon the same act of Parliament, which declares, that the same is not in desuetude; and it is founded upon a most just and necessary ground, viz. that tradesmen, within burgh, pay stent for their trade, which were impossible for them to do, if the same tradesmen were permitted in the suburbs, who might work cheaper than they, not being liable to stent.

THE LORDS explained their former interlocutor, and declared, conform to the foresaid decret of the town of Edinburgh, viz. that weavers in suburbs might