

1712. *January 1.* REID and KER *against* The TOWN of EDINBURGH.

KING Charles II. by his gift in 1671, grants to the community and burgh of Edinburgh, a custom and imposition of twelve pennies Scots upon every Scots pint of foreign ale or beer imported within their liberties; and whereof they have been in possession, not only as to liquors coming from beyond seas, such as mum, Rostocker beer, &c. but likewise as to English drink. Mr Reid and Ker having imported some English ale, Montgomery of Asloass, and others of the Town's tacksmen, seize on it for not paying the foresaid duty. The merchants importers pursue a spuilvie, on this ground, That, by the 4th and 6th articles of the Union, English beer can no more be called foreign, than ale brought to Edinburgh from Dundee or Prestonpans, which pays no duty; the two kingdoms being united into one, with a communication of all freedoms and privileges of trade.

ALLEGED for the TOWN,—That, by the 20th and 21st articles of the Union, it appears sundry rights are excepted and reserved; such as our laws, our heritable rights, superiorities and jurisdictions, with all the privileges of the royal burghs; and to show it was a total equality, there be the India Company and others, which have privileges privative and not communicated to others. And some gentlemen in England being in possession of exacting toll and duty off the Scots black cattle going through their ground, the same was not taken from them till an equivalent was paid. And Sir James Montague, the Queen's solicitor, being consulted whether the Town of Edinburgh's gift of a merk upon the ton of foreign goods ceased or expired by the Union; and, by his report produced, gives his opinion it does not, but that Edinburgh has as good right to it as London has to their duty of package and scavage on the river of Thames. And this duty on the English ale may as well be exacted as the merk on the ton of other English goods imported, the same being still foreign and alien: whereof there be sundry kinds; as *alienigenæ, amici, inimici, et neutrales*: Now the English are all *aliens amies*, unless the *postnati* act of naturalization alter it; and the French have the same distinction *inter regnicolas et albinos, or albinatos*, called in their dialect *Aubeins*. Likeas, the importing English ale wrongs our own product and consumption of the native growth of our beer; besides, it was never the design of the Union to take away our private rights, of which sort this duty plainly is, it being their property the time of making the Union.

ANSWERED,—It would sound very harsh to tell the Parliament of England that any thing imported out of their kingdom to Scotland shall be reckoned foreign since the Union: and have they not reason to complain, if their ale be under a greater burden than ale brought from another town in Scotland? And Montague's opinion is only on the application of the one side, but *parte inaudita* as to the other.

The Lords, on Dun's report, found the Town's gift was a private right, and fell not under the Union; and so they had right to exact this duty as well since the Union as before it, being in the same state it was in before.

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