

Pleaded for the suspender: All such societies as this, entered into without public authority, are held to be unlawful combinations; from which it follows, that the trades of Saltcoats can claim none of the privileges enjoyed by corporations; that they have not *persona standi in judicio*; nor can their boxmaster sue in their name.

That the present action is carried on by Crawford solely as boxmaster, and not *tanquam privatus*, appears from the libel.

2do, Et separatim, it was *pleaded*, That whatever effect this bond might be supposed to have *quoad* the original subscribers; yet it is not binding upon the defender, in respect it is not a valid deed, as wanting both the date of his subscription, and the names and designations of witnesses thereto, which are essential requisites to all written obligations.

' THE LORDS suspended the letters *simpliciter*.' See SOCIETY.

Reporter, Lord Auchinleck. Act. Nairn. Alt. W. Wallace, junior. Clerk, Kirkpatrick.
Fol. Dic. v. 3. p. 110. Fac. Col. No 33. p. 62.

1762. November 23.

ROBERT WHYTE Taylor in Glasgow, *against* The DEACON and MASTERS of the Taylors of that Burgh.

ROBERT WHYTE, a freeman of the taylor-trade in Glasgow, did for some years, confine his work in a great measure to the making of plaiding hose, and that chiefly to be exported to foreign parts; and in this work he frequently employed women.

The deacon and masters of the taylor-trade called the said Robert Whyte before them, and fined him for employing women in this business; and also pursued him before the trade's bailie, who also fined him, because it was alleged, that the employing of women, and others who were not freemen, in branches of the taylor-trade, was contrary to the acts of the incorporation, particularly one made on 7th February 1758.

As Robert Whyte was daily harassed by proceedings of this kind, he presented a bill of advocation to the Court of these summary processes; and he also raised a process of reduction of the decreets above mentioned, pronounced by the deacon and by the trade's bailie, and also of all the acts of trade upon which they were pretended to be founded.

In these processes, which were reported to the Court upon memorials, he *pleaded*,

imo, That the business of making plaiding hose, to which he has for many years confined himself, and for which only he met with the prosecutions now complained of, is truly no branch of the taylor-trade.

No 78.

A tradesman in a burgh may employ women, and other persons who are not free in the burgh, in any branch of his trade.

No 78.

2do, That, if it were, nothing is to hinder any freeman to employ such journeymen as he thinks qualified to assist him in his business, though they have not served an apprenticeship within the burgh, and even to employ women, if he finds that they are able to do the work sufficiently. And,

3tio, That as the pursuer is not only a freeman of the taylor-trade, but is also burgess and guild-brother of the town of Glasgow, and carries on a very considerable exportation of plaiding hose to our colonies abroad, it is competent to him, supposing he were not free of the craft, to employ any person he pleases to make hose for exportation ; as was decided betwixt the incorporation of Hammermen in Glasgow and James Dunlop and others merchants there, and the incorporation of Cordiners against the said merchants, both decided, 3d December 1756, No 72. p. 1948. and No 73. p. 1950.

Pleaded for the defenders : That it has been part of the policy of this country, not only that burghs should be incorporated, but also that they should have within themselves sundry subaltern incorporations for carrying on the several trades that are necessary to better purpose. That this is the case of the incorporation of Taylors in Glasgow, who are empowered by their seal of cause to make by-laws, and to put the same in execution against their own freemen ; and that they are certainly the best judges of the acts and by-laws proper and necessary for regulating their own trade. And it is obviously expedient for the lieges, that people who serve them in any art or mystery which require dexterity and skill, should have proper judges, to see that they understand their business ; for, if persons who have never been taught shall be allowed to work, it is evident, that the sufficiency of the work must greatly decay, and consequently the trade.

2do, Those who are incapable of performing the duties, ought not to be admitted to have the privileges of the incorporation. Women are by law incapable of the former, and therefore ought not to be allowed the latter.

3tio, If women are allowed to work, as their wages are much lower than those of men, they will soon draw the whole business to themselves, and so at once put an end to the corporation.

' THE LORDS found, That the making hose does not fall under the exclusive privilege of the corporation of taylors ; and that it is lawful for any person to carry on that business, without being subject to the control of the said corporation : And further found, That all freemen of the corporation may lawfully employ any persons, men or women, to assist them in carrying on any part of their business, whether in their own houses or elsewhere ; and reduced the regulations of the corporation in so far as inconsistent therewith ; and also reduced the decrees against the pursuer Robert Whyte.'

Upon a reclaiming petition, the Court ' adhered.'

Reporter, *Lord Alenmoor.*

Act. Burnet.

Alt. W. Stewart.

Fol. Dic. v. 3. p. 106. Fac. Col. No 98. p. 220.