

1778. *January 29.* INCORPORATION OF WEAVERS in GLASGOW *against* JAMES FREELAND and OTHERS.

BURGH-ROYAL—EXCLUSIVE PRIVILEGES.

An exclusive Privilege to carry on the Webster Craft found to reach to Silk-weaving, though not in use at the time of the Grant.

[*Faculty Collection, VIII. 19; Dict., 1975.*]

KAIMES. When the Act of Parliament was made, there was no silk-weaver in Scotland. Had there been any such, the Act would have been extended to them. We ought to supply this accidental defect by a liberal interpretation, on the principles of the Act. This is consonant to an opinion of Lord Bacon's.

HAILES. If the weavers can try the skill of the silk-manufacturers, I do not see how the exemption can be allowed. They are not exempted by the statute. The weavers in Glasgow are more skilful now than when they obtained their seal of cause. Formerly it is probable that they only wrought coarse woollen; now, they work fine linen cloth: yet still this is weaving.

ELLOCK. After a thirlage of *grana crescentia* is established, grain of a superior nature, introduced by improved culture, will not be liable in multure. I would determine here according to that analogy.

BRAXFIELD. If seals of cause are to be so restricted, they will be reduced to nothing, especially where ancient. One great purpose of such grants was to encourage men to improve in the art which they professed.

JUSTICE-CLERK. I cannot go back to the original state of manufactures, when seals of cause were granted. We all know the great change in the weaving trade which has occurred in Glasgow. Formerly no fine linen, or holland, was wrought: that fabric was introduced in our own days, by John Gordon; yet the weavers of fine linen ever understood themselves to be liable to the rules of the incorporation. The legislature expressly encouraged that branch, and granted an exemption: we cannot take upon us to extend that exemption to another and a separate branch.

WESTHALL. If a piece of cloth is composed partly of linen yarn and partly of silk, whether ought the weaver to be exempted on account of the one, or restricted on account of the other?

PRESIDENT. On reading the informations I attempted to lay hold of this distinction, but I could not fix on it. That which is brought to the market as *linen*, and known by that name, is linen; nothing else can be so called.

COVINGTON. I would not confine seals of cause to what existed at their date. If this manufacture does not fall within the seal of cause, there was no occasion for the Act of Parliament: that act supposed fine linen to fall under

seals of cause, although at their date there was no fine linen wrought in Scotland.

On the 29th January 1778, "The Lords found that the silk-manufacturers were obliged to enter with the weaver craft."

*Act.* T. Morthland, W. Craig. *Alt.* D. Rae.

*Reporter,* Gardenston.

1778. *January 29.* TAILORS of GLASGOW *against* HUGH M'KECHNIE and OTHERS.

#### BURGH-ROYAL—EXCLUSIVE PRIVILEGE.

[*Fac. Coll. VIII. 405 ; Dict. App. I.—Burgh-Royal, No. III.*]

Whether the Statute 3 Geo. III, c. 8, entitles the Husband of a Soldier's Daughter to carry on Trade within Burgh, notwithstanding the Privileges of Incorporations?

KENNET. It is not so much as said that the fathers of the women whom the defenders married were tailors, or exercised any craft in Glasgow.

HAILES. The legislature had a power to limit the rights of any incorporation, company, or fraternity; and, so far as it has done, the limitation must be effectual. But I cannot perceive any words in the statute which can be interpreted in favour of the plea of the defenders; indeed it is a plea which tends to overturn all exclusive privileges of corporations.

PRESIDENT. I cannot suppose that the statute meant to give liberty of exercising trades to all the wives and children of the soldiers at large.

GARDENSTON. If a man is apt and fit to carry on a trade, his children, by the statute, may. If the husband of his daughter is apt and fit, this is sufficient.

COVINGTON. The privileges are given to wives and children, but not at large; it is only when the father has set up.

On the 29th January 1778, "The Lords found that the defenders are not exempted by the Act of Parliament;" adhering to Lord Stonefield's interlocutor.

*Act.* W. Craig. *Alt.* B. W. M'Leod.

*Diss.* Gardenston.