

tants did not suggest a different method of administration. — * 1776, Bur-
gesses of Kilmarnock *contra* the Magistrates.

No 109.

' THE LORDS assoilzied the defendérs, and found them entitled to expences.'

Reporter, *Lord Eskgrove.*
Clerk, *Colquhoun.*

Act. *Dean of Faculty, Maclaurin.*

Alt. *Lord Advocate, Craig.*

Craigie.

Fol. Dic. v. 3. p. 103. Fac. Col. No. 287. p. 441.

1786. *July 21.*

ALEXANDER DUNCAN, and Others, *against* The MAGISTRATES of ABERDEEN.

BETWEEN the years 1620 and 1675, the fine, or composition, paid in the town of Aberdeen by intrans burgesses, had been gradually increased by the magistrates from 100 to 400 merks.

In 1699, these dues of entry were reduced to 100 merks; and, on this footing, matters continued till 1779.

About this time the trade of the town had greatly increased. A considerable debt, too, had been incurred in building a commodious harbour, and in other improvements of the same nature; and the dues of entry were augmented to L. 25 Sterling.

Alexander Duncan, and other unfreemen, brought an action for setting aside this regulation; and

Pleaded: The revenues of a royal burgh, where they arise from the advantages of exclusive trade, are not to be extended beyond the limits of ancient usage and possession. Whenever, from the expence of public works, or from any other cause, the income of the community has become inadequate, recourse must be had, either to a general taxation of the inhabitants, as prescribed by the statute 1592, c. 155, or to the immediate authority of Parliament; Stair, 11th January 1678, Town of Aberdeen, No 16. p. 1866. It is by these means alone, that new burdens can at present be imposed in royal burghs. In this manner only it can be shown, that such an alteration is indispensably requisite, while every danger of an improper selection of taxable subjects is precluded. The present regulation, by which a new obstacle is thrown in the way of young men in their progress in trade, seems, in every point of view, most oppressive and impolitic; and the ancient practice in this burgh, as corrected and brought back at a later period to its original state, does not afford any countenance to it.

Answered: What is here complained of as an undue extension of the privileges conferred on this town, is only a proper exercise of its established rights. The benefit of exclusive trade forms an essential part of the constitution of every corporation of this sort; nor has any limitation been imposed as to the

No 110.

The Magistrates of a royal burgh have power to increase the dues paid by persons becoming burgesses.

* Not yet reported. See APPENDIX.

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manner in which it is to be communicated to strangers. As a due regard must necessarily be paid to the advantages arising from such a communication, this will always vary, as trade and commerce are in a thriving, or in a declining state. Thus the present alteration is fully justified by the circumstances of the case; and the necessity of an additional revenue, on account of the expences recently incurred for the general utility, renders it altogether unavoidable.

The Court were unanimous in sustaining the defences. Even the Judges who, in the question from the town of Glasgow, voted against the exaction of new imposts of any sort, without Parliamentary authority, expressed their opinion, that the price of the right of burgesship might be proportioned, by the magistrates, to the benefits accruing from the participation of trade. See No 108. p. 1999.

THE LORDS sustained the defences; thus giving effect to the regulation in question.

Lord Reporter, *Stonefield.*

Act. *Solicitor-General Blair.*
Clerk, *Robertson.*

Alt. *Buchan-Hepburn, Hay.*

Craigie.

Fol. Dic. v. 3. p. 102. Fac. Col. No 288. p. 443.

1793. February 19.

WILLIAM MUIR and Others, *against* WILLIAM MACBEAN and Others.

No 111.

The Magistrates and Town Council of Edinburgh have power to form and regulate societies of porters, chairmen, &c. within the city.

Disbanded soldiers are not entitled to exercise a plurality of trades.

THE porters of Edinburgh were first formed into a distinct society, by an act of the town council, in 1738, by which they are allowed to exact admission-dues, &c. for the benefit of their poor, and are subjected to a variety of regulations, in order to secure their good behaviour. The act declares, 'That no person shall be allowed to labour or carry burdens within the city, in the character and station of a porter,' who does not obey its directions; Maitland's History of Edinburgh, p. 336, 337.

The chairmen form a distinct society, and were put under regulations by the magistrates in the same year.

The act relating to the porters was rescinded, and new regulations adopted, by an act of council in 1762, by which it is provided, that no chairman shall be allowed to enter into the society of porters.

In 1777, the council framed additional regulations for that society; in particular, they prohibited the chairmen from interfering with the business of a porter, under this exception, 'That they may carry furniture in flitting time, from the 15th to the 30th of May, on paying 1s. 8d. each every year into the porters' box, for the use of the poor.'

A similar regulation had been made annually for several years before.

It was declared by these acts, that the society formed by them, and the regulations which they introduced, should only continue during pleasure.