

No 92. materials, and exporting the produce of their labour, was refused without answers.

The petition for the crafts was ordered to be answered. In this paper they prayed, That if they had no right to trade in all the native commodities of the united kingdoms, they should at least be allowed to import made work from England, of the kinds which they were entitled to manufacture. Without this power, they alleged that they could not have a proper assortment of the articles necessary for their several trades. And they now, for the first time, *contended*, that the act 1661, prohibiting the importation of made work, was in desuetude. To establish this, they offered to undertake a proof, that by the uniform and immemorial practice, not only of Aberdeen, but of all the other burghs in Scotland, craftsmen have constantly imported, without dispute, such articles of made work as fell within the proper business of their several crafts.

On advising this petition, with answers, it was

Observed on the Bench: The act 1661 stands unrepealed, and a statute which introduces a general regulation that may still be enforced, consistently with the situation and manners of the country, cannot go into desuetude. The object of the pursuers is to be merchants in their own trades, while they enjoy exclusive privileges as manufacturers.

The COURT accordingly, on this point, 'adhered to the interlocutor reclaimed against, and refused the desire of the petition.'

Lord Ordinary, *Eskgrove*.

Act. *Maconochie, M. Ross.*
Clerk, *Sinclair*.

Att. Solicitor-General, *Burnet*.

R. Davidson.

Fol. Dic. v. 3. p. 108. Fac. Col. No 56. p. 119.

See APPENDIX.

SECT. VI.

Powers, Duties, and Jurisdiction of Magistrates.

No 93.
The privilege of arresting strangers, regards merchant-furnishings, and no other kind of debt.

1609. November 29. EDWARD KINCAID *against* LAIRD OF KINCAID.

THE LORDS will advocate an action, pursued by a burgher of Edinburgh against a country gentleman, before the Provost and Bailies of Edinburgh, notwithstanding of caution found to answer as law will, if the cause be not founded upon a merchant trock, or furnishing, but upon a promise of broker-fee for helping to sell land, or such conditions of the like nature.

Fol. Dic. v. 1. p. 119. Haddington, MS. No 1660.