

found, That the pursuers had not condescended sufficiently to entitle them to a proof; and, thereafter,

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‘ Adhered to their former interlocutor; with this variation, ‘ That, in order to give the proprietor opportunity to claim, no confiscation, for not payment of the duty, shall proceed till at least eight days after the seizure, and then not without an application to the magistrates by the seizure-makers, and their warrant thereupon.’

Act. *H. Erskine, Crosbie.*Alt. *L. Adv. Montgomery, et Rae.*

Clerk, ———.

*Fol. Dic. v. 3. p. 104. Fac. Col. No 171. p. 83.*1778. *January 29.*

JAMES FREELAND, and Others, *against* The INCORPORATION of WEAVERS in Glasgow.

THE incorporation of weavers in Glasgow, by their seal of cause from the town in 1528, ratified by a charter from the Crown in 1681, are vested with the exclusive privilege of carrying on the ‘ webster-craft’ in that burgh.

At a period long subsequent to these charters, the manufacture of silk-cloth was introduced into Glasgow; and, afterwards, manufactures of mixed cloths, composed of silk with linen, or cotton, were also introduced.

James Freeland, and others, engaged in the business of weaving these manufactures within the town, though not entered freemen of the incorporation.—The incorporation of weavers brought a declarator for ascertaining their exclusive right to weave the cloth in question within Glasgow.

Pleaded in defence for the unfreemen: The exclusive privileges of incorporations being restrictions on trade and improvement, are to be strictly interpreted.—Silk-weaving, a new manufacture, not known in Glasgow till long after the seal of cause to the weavers, and ratification of it, is not reached by these grants.

This seal of cause requires, that the person admitted be found ‘ a sufficient, expert tradesman of the craft.’—When silk-weaving was introduced, none of the craft at Glasgow were capable to try a silk-weaver’s sufficiency in his art, which is totally different from theirs. The craft, therefore, could not, in consistence with their own seal of cause, have demanded that a silk-weaver should enter with them. Though a few have of late entered voluntarily with the craft, that will not give them any right to oblige others to enter with them which they had not before.

Pleaded for the Incorporation: The seal of cause is conceived in general terms, comprehending every branch of weaving, not limited to such only as were practised at Glasgow at the time of the grant. It is of no consequence, therefore, that silk weaving was introduced posterior to the grants, which is the case with

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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.

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most of the other branches of weaving now in use there, confessedly reached by these grants.

The freemen of the craft were always sufficiently qualified to try the skill of the silk-weavers in the art of weaving, the general principles being the same in weaving silk as other materials. Now that there are actually many of the freemen silk-weavers, there is no reason whatever for an objection on this ground.

THE COURT found, that the 'defenders are not entitled to carry on the business of silk-weaving within the burgh of Glasgow without entering with the 'incorporation of weavers.'

For the Incorporation, *Craig, Morshland.*

Alt. Rac.

Fol. Dic. v. 3. p. 108. Fac. Col. No 8. p. 19.

1783. December 4. The BAKERS of EDINBURGH *against* WILLIAM DOWIE.

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Exclusive
privileges of
the incorpo-
rated crafts
not confined
to *manufac-
turing* alone.

WILLIAM DOWIE, who, though a burghess, was not a member of the corporation of bakers of Edinburgh, kept a shop in that city, for the purpose of selling bread of all kinds, which he baked in a workhouse situated without the city's liberties.

The corporation of Bakers considering this practice as an encroachment on their privileges, brought it under challenge in a declaratory action.

Pleaded in defence: The privileges conferred on this corporation, like those of every other, are confined to *manufacturing* alone. Accordingly the bakers of Musselburgh, Dalkeith, and other neighbouring towns, are in use, not only on market-days, but at all times, to import bread manufactured by them; also the grocers, and other shopkeepers in Edinburgh, sell bread, and other articles, bought from unfreemen bakers; and, with regard to other trades, the haberdashers, though not members of the hatter or weaver corporations, are in the practice of selling hats, and linen and woollen stuffs of all kinds. On the same principle, in an action instituted by the Copper-smiths of Edinburgh against James Aberdour, the LORDS found the defender entitled to import and sell copper-smith work, if not manufactured within the royalty; 6th August 1768. No 84. p. 1966.

Answered: It is indeed inherent in the notion of a free market, that on the days appointed for that purpose, not only burghesses, but unfreemen, may dispose of their several manufactures. The inhabitants of royal burghs too, in virtue of the act 1592, c. 154. may import for their own use merchandise of every sort; a liberty perhaps frequently employed to cover the introduction, by unfreemen, of articles not previously ordered; and merchants, whose principal objects of trade are commodities not subject to the corporation privileges, may retail in their shops particular articles usually prepared by the members of corporations, 25th November 1749, *Isat contra* The Candlemakers of Edinburgh; a practice which has been legitimated by long usage, and does not materially