

to other later Fairs, or to any Jurisdiction at other Times 18 July 1676
 E. Kinghorn contra Town of Forfar. The like general profestment was
 extended to 20 Shil. Sterling in Use to be paid yearly to the Constable
 as appoyed by the Eques in Exchequer 9 Decemb. 1670 L. Hutton
 contra Town of Dundee. An Act of Town Council with 40 Years Pro-
 fession by the Town, of upliffing Fines imposed by the Constables Justice
 Depute was not sustained as a Title of Prescription, to separate the Benefits
 these Fines from the Jurisdiction, and apply the same to the Town: It
 fortified by a solemn Contract betwixt them and the Constables Decees-
 sors, acknowledging that the Town had some Pretensions to the Jurisdiction
 of Justice ^{within itself}, and obliging the Constable to grant a yearly Deputate
 of the Office of Justice and Constabulary to one of the Bailies there
 to be named by himself 24 July 1707 Town of Brechin contra E.
 Pannuir and L. Grange. In respect the private Act of the Town
 consented to by the Constable could not be a ground of Prescription, to
 ric away from him the natural Perquisites and Fines of his Office. All
 the Kings Castles or Fortalices were expressly dispensed a Right is then
 if comprehended under the annexed Property, resolves only into an heri-
 table Keeping, which doth not exclude his Majesty's particular necessary
 Use: so that the King may notwithstanding thereof, in Time of War or
 Insurrection, put Garrison in such strong Holds. Nor yet will the
 profestment of Fortalices in a Vassal's Charter empower him to build
 warlike Strengths, but only such Fortalices as then were built. Stair
 Lib. 9. 66. Sir Thomas Craig (Foud. Lib. 2. Tit. 8. §. 2. et Tit. 9. §. 7.) is of
 Opinion that all strong Holds with Turres pinnates (so called from
 a Pin a sharp pointed Dale set about a Tower on the Side of a Bastion
 or about the Turres or Round upon the Corners, from whence
 shot may be directed amongst the Walls are presumed to have been built
 publick and not for private Defence: And much more that Castles with
 Bortizans or Bards, that is strong and high Walls surrounding the Castle
 Castles seated upon Places naturally strong, or furnished with regular Forti-
 fications of Earth or Stone accustomed to secure against publick Enemies
 in War which probably might sometime be kept out against the King
 cannot be builded without his Majesty's special Warrant, and if otherwise
 built may be demolished, and the Builder punished: For it being formerly
 Treason by the Law of Scotland, for to hold any Fortalice against the King, or to
 deny Access to him or his Commissioner by armed Force; the King must
 certainly have a greater Right in all such Fortalices than in other Things
 or private Rights whereof a Surrender to his Majesty may be safely refused
 In which Opinion that learned Author is followed by Sir George Mackenzie
 (Observ. on Act 23. (Par. 11. §. 3.) But the Lord Stair (Foud.) sees no Reason

extend Fortalices to all Houses with Battlements Towers or Acinds,
 which, if improper for a Siege or national Defence, and only made for pre-
 vate Safety against Robbers or flying Parties in troublesome Times or per-
 haps for Ornament; may pass in Charters as Houses and other Pertinents.
 Nor is Craig's Argument for such an Extension good: Seeing that which in-
 ferred thereon was not the Nature of the House kept out against the Law
 reign: But the holding out and carrying off by Force, which is treatable
 to be in any House having or wanting Towers or Battlements.

3. Fortalices, or Daces where Deer are kept for the Kings Measure in
 Hunting are a third Sort of Regalia inight under Barony, which
 doth carry the Privilege and Office of Forrestry, and gives the Barony
 Right to hunt kill and make Use of the Deer or to use the Wood so as
 not to destroy either: But this is with a Reservation of both for the pro-
 per Use of the King Stair Lib. 2. Tit. 3. §. 67. or in. Vol. 2. pag. 544.
4. A Burgh of Burony tho' not expressed is carried as Part and Per-
 tinent of the Barony 16 Janu. 1666 E. Argyle contra Campbell.
5. Salmon fishing is a casualty p^{er}petua publick of a navigable
 River commonly used for passage or transportation, is carried in a Char-
 ter erecting Lands in a Barony or higher Dignity cum piscationibus
 Craig Foud. Lib. 2. Tit. 8. §. 7. Stair Foud. §. 67. Thus a Clause cum pis-
 cationibus in a Charter and Infestment of a Barony is a Title of Pres-
 cription of a Right to Salmon fishing 7 Feb. 1672 Fullerton contra
 E. Edintown Salmon fishing was found constitute by a Charter from
 a Bishop for a river of Salmon the the Bishops own Charter from
 the King was not produced. For it was presumed from his long Possession
 by his Vassal 13 Janu. 1666 Brown contra Town of Kirkcubright
 Possession being loci tituli to Church Men Infestment in a Burgh royal
 cum piscariis and 40 Years Possession was found to carry a Right to
 Salmon fishing, eodem die inter addem. And also to Cruives 26 Janu. 1666
 Peritors of Don fishing contra Town of Aberdeen again Infest-
 ment in a Sheriffship with the Emoluments and Justices thereto belong-
 ing with 40 Years Possession was sustained to constitute a Right of Sal-
 mon fishing for some Days yearly: That being considered as a Service owing
 upon the fishing, which might as the Sheriff Cruives and other casualties of Offi-
 ces be constituted simply by long Possession 13 Decemb. 1677 E. Murray con-
 tra Lewis of the Water of Veit.
6. Mills come under the General of Barony 5 Feb. 1667 C. James contra
 Tenants of Meambus and Hogg Craig Foud. Lib. 2. Tit. 3. §. 12. Stair Lib. 2.
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