**The BURGH LAWS**

**Translated by Ann Matheson (2011)**

**i. Concerning the King’s rents in burgh tenures**

In the first, it must be considered what the rent of our lord the king in burgh tenure is. Each man gives the king for his burgh tenure that he defends, for each square perch of land (c 25 metres square) annually.

**ii. Concerning newly created burgesses**

Whoever is made a new burgess of our lord the king in the first shall swear loyalty to the king and to his baillies and to the community in which he has been made a burgess.

**iii. Concerning taking strangers (upland men) into custody in the burgh**

Any burgess can take into custody strangers (upland men) from beyond the market and outwith his home and without permission of the burgh grieve, but not if the market fairs are held in the burgh and not if he is in the king’s army or indeed engaged in the custody of the castle.

**iv. Poinding a burgess through another burgess**

A burgess cannot poind another burgess without the permission of the burgh grieve.

**v. Concerning things loaned by a burgess to a stranger (upland man)**

If a burgess has loaned to men from outside the burgh, if the debtor concedes the debt, he shall yield it and if he negates the debt he shall do the right thing (before the lawholders of the burgh)

**vi. Concerning complaints in the burgh**

Cases that arise in the burgh shall be held and determined except those that are under the king’s crown. And all quarrels that take place within the burgh must be ended within the burgh, except those that are under the king’s crown. Those that belong under the king’s crown must be registered and kept safe until the arrival of the Justice and then they shall be pleaded against and resolved in the burgess court before the Justice.

**vii. Concerning complaints outwith the burgh**

If a burgess is called concerning any complaint he shall not plead outside the burgh unless it is in default of court nor must he respond without a day or term specified unless he has earlier made a foolish response, with the exception of cases that fall to the king’s crown. And as far as those cases within the remit of the king are concerned, he must be judged by his equals according to the laws and courts of the burgh.

**viii. Concerning a complaint between a burgess and a merchant**

If a complaint is raised between a burgess and a merchant, it shall be ended within three tides of the sea.

**ix. Concerning merchandise that arrives in ships**

All merchandise that comes across the sea in ships shall be brought to land, except salt and herring that can be sold on the ship.

**x. Concerning land owned for a year and a day**

Anyone who has held his land for a year and a day that he has bought legally through the witness of twelve neighbours in peace and without challenge – whoever challenges him after one year and one day and if he is in the same family and at the same stage of life and he has not made a claim within the said time, he will never be heard. But if he is within the age or outwith the jurisdiction he shall not lose his right when he comes of age or is reinstated in the region of jurisdiction.

**xi. Concerning a rural dweller from outwith the burgh**

If a rural person (rustic) from outwith the burgh has a burgagium (land rented in the town)he shall not be held for burgh rent in another place in the same burgh in which he has his rented land. If indeed that burgess challenges a burgess living in the burgh, the latter burgess shall defend himself against the rustic according to the law. But if a burgess that lives day and night in the burgh challenges that foresaid rustic about anything from which battle might arise the rustic shall defend himself with battle against the burgess.

**xii. Concerning the challenge of a burgess by a stranger (upland man)**

If any stranger (upland man) shall challenge a burgess on any matter, he cannot fight against the burgess but can defend himself through the law of the burgh unless it be through treason or for a reason from which he must defend himself in battle. Nor can the burgess fight against the stranger (mountain man) unless he first leaves the burgh.

**xiii. Concerning the battle of the burgess**

The king’s burgess can have a battle concerning the burgess of the abbot, the prior, the earl or th baron, but not the other way round.

**xiv. Concerning the freedom of a burgess’s son**

The son of a burgess, as long as he is at his father’s table will have the same freedom to sell and buy as his father has departs from his father’s table, he will not enjoy the freedom of the burgh unless he himself becomes a burgess.

**xv. Concerning another man’s slave entering the burgh**

If the slave of any baron or soldier or anyone comes into the burgh and stays in his burgh tenure for one year and one day without challenging his masters or his baillie, he shall be free evermore as a burgess is and enjoy the freedom of that burgh.

**xvi. Concerning the foreign merchant**

No foreign merchant can buy wool or hides or other merchandise either outside or within the burgh unless they are bought from burgesses.

**xvii. Concerning bloodwit and suchlike things**

And let it be known that within the burgh bloodwit will not be heard nor stokisdynt[[1]](#footnote-1) nor market nor herezald[[2]](#footnote-2) nor any such things.

**xviii. Concerning ovens lawfully held**

Every burgess of the king may have an oven upon his own land but no one else other than the king’s burgess.

**xix. Concerning the forfeit of bread and ale**

If any man or woman in the burgh be in forfeit of bread or ale, no-one should admit them but the burgh grieves. If he/she fails twice, he/she shall be castigated for his/her forfeit. If he/she fails three times, justice shall be carried out upon him/her. If the burgh grieve fails to do justice on him/her, the body and personal property of the burgh grieve shall be in the king’s will.

**xx. Concerning the buying and dyeing of wool**

No one but a burgess can buy wool for dyeing or make or cut cloth.

**xxi. Concerning the disposal of lands of conquest**

Any burgess can give away or sell his lands of conquest and go wherever he wishes freely unless the lands are in dispute.

**xxii. Concerning a burgess who is too old to fight**

If any burgess be challenged to battle and excuses himself in his response, he shall not fight but through the oaths of eleven men like himself, he shall acquit himself.

**xxiii. Concerning the hereditary succession of a burgess who has died**

If the burgess has acquired land or lands in the burgh and has a son to inherit and has not assigned those lands to anyone before his death, his son or daughter shall inherit the land the father had on the exact day he died with the reservation that his wife, for her whole life as long as she remains a widow, will hold the inner part of the house which is called the flett[[3]](#footnote-3). But the heir will have the outer part of the house if he wishes to live there. And this I say, that the wife shall not have any other portion. But if she has another dowry[[4]](#footnote-4) …she and the heir will enjoy the use of it.

**xxiv. Concerning a burgess who has several wives**

If any burgess has two wives and has acquired many lands and has produced children with each wife, all the lands he possessed on the day he died, also heritage from conquests he has not assigned to anyone, those lands acquired at the time of the first wife will go to the son and heir of the first wife. In the same way, the lands acquired in the time of the second wife will go to the son and heir of the second wife if they had not been assigned to anyone before his death.

And the second wife will not remain in the house of the first heir after her husband has been dead for 40 days.

**xxv. Concerning dissent among foreign sailors**

If ships from different regions arrive in the king’s land of Scotland and dissent arises between such men within the king’s gate, the king’s baillies will hold right between them concerning any kind of quarrel any one of them would have with any other which has arisen in the lands of the king of Scotland. And if it shall fall that the challenger or defender has given his toll and done to the king’s land what he ought to do[[5]](#footnote-5) and his ship be in the coast, he will pass by in peace and one or the other shall seek his rights where he can.

**xxvi. Concerning the accusation of theft by an uplandman**

If a burgess is accused by and uplandman of theft found in his own house and in his possession and denies the theft as a free burgess against an uplandman and says he has no surety for it but had legally bought the object of contention in the burgh market he shall clear his name with the oaths of 12 of his neighbours and shall be acquiited of the accusation. And he shall swear he does not know when the door of the house of him from whom he bought that thing was closed or open.

**xxvii. Concerning a new burgess having kirset**

Whoever is made a new burgess of a wasteland and has no hospitable lands, can have kirset for the first year and after the first year shall have land he can build on . If after that it has been laid waste by fire or battle and he has other lands he can build on, he can leave that land without building on it until he has the wherewithal to rebuild it save on all solid ground ( Scots translation is ‘where the kings farm’)

**xxviii. Concerning oath swearing on account of debt (owed to a burgess)**

A burgess may through his own voice put him to oath, whoever that man may be, who has denied his debt to him. But if he is a knight who has denied the debt, the knight can put forward his steward or his grieve with other free men to make the oath if the burgess has no witnesses on his own behalf.

**xxix. Concerning an oath between a burgess and an uplandman**

If any complaint arises between a burgess and an uplandman , from which an oath shall be made, the burgess shall clear him with six hands of burgesses against him and he against the burgess with as many of his like. And if one can prove against the other, through witnesses, it is necessary to have a party of burgesses and a party of uplandmen in the contract.

**xxx. Concerning how to conduct the swearing of witnesses**

let it be known that he who brings witnesses in any quarrel to prove a point does not himself have to swear but the witnesses shall swear that they are telling the truth and it will be expressed in their oath that they do not say it on account of hatred of one or love for another, but for the sake of speaking the truth. And then the challenge and answers must be recorded in the presence of witnesses so that they can hear what they shall swear before they swear in the witnessing.

**xxxi. What a burgess can say on his wife’s behalf**

Any married man can respond on behalf of his espoused wife and stand in judgement and do for her anything in court if she is accused of anything. And it must be upheld that in the burgh courts Twertnay is used in defending right and wrong.

**xxxii. Concerning taking plunder from uplandmen**

Any burgess can poind item from outside the burgh for his debt inside and outside of his house. And if it sits on his horse, he does not have to put it down from his horse. And if it was taken before that day or came to re-enter as poinded before it was taken, it cannot be taken. But if any other man says it had been taken before that day he shall swear to that and have his plunder in peace. And it should be known that it is not necessary for a burgess to take any other pledge for his poind unless he wishes to.

**xxxiii. Concerning obstacles of custody**

There are four obstacles to impounding in the burgh. That is, if his master was in the king’s army or was in the king’s castle to guard it for a space of 40 days, if he comes to the courts or if he comes to the burgh for the purpose of buying his lord’s food.

**xxxiv. Concerning the borrowing of impoundings from rural areas**

Let it be known that uplandmen can borrow their plundered (beasts) three times from week to week and then three days and no more. And if they (the uplandmen) , out of perverseness, do not want to borrow them and they die of hunger, the burgess shall make them drag it out, whether it be a horse or another beast, but he will not flay it but hold it by the head and rump and afterwards impound another one.

**xxxv. Concerning those not permitted to be poinded**

No one can capture a fisherman carrying a fish to be sold unless it is for the fish or the fisherman’s debt. Nor those that bring wood or peats or for their own debts.

**xxxvi. Concerning the annual rent of the brewers**

Whoever brews throughout the year will give the alderman 4 denarios; 2 denarios for half a year.

**xxxvii. Concerning the rents of tradesmen and merchants**

Every tradesman shall settle with the burgh grieve and give him a halfpenny each market day. A merchant with a covered booth in the market place on market day shall give a halfpenny to the burgh grieve for custom. If the booth is not covered, he shall pay a farthing.

**xxxviii. Concerning oath-taking for breaking assize**

The burgh grieve may not put any man or woman under oath for breaking assize unless one has complained of another. And if he denies it and the other man does not have witnesses, then he shall clear him according to burgh law, that is to say by the sixth hand[[6]](#footnote-6) (?)

**xxxix. Concerning the maximum forfeit in the burgh**

Let it be known that the burgh forfeit does not exceed 8 solidos[[7]](#footnote-7) from those convicted in a grievance and judgements, but this is seldom taken.

**xL. Concerning the main courts throughout the year**

Be it known that there are three principal courts throughout the year where all burgesses should be present. The first is after the Feast of St Michael. the second after the birth of Christ, the third after Easter. Any burgess who does not attend, without being legally excused whether he is sick or out of the country or at the fairs, if he was in the burgh, will pay 4 denarios in forfeit. This will be 8 solidos if he is a burgess living in the country because he does not have to come to any courts through the year except these principal ones.

**xLi. Concerning burgh tenure given in a free marriage**

If anyone receives burgh tenure in a free marriage with any woman and has a son or daughter with her and , for some reason, the wife dies and, after the mother’s death, if the son or daughter lives or dies the man will enjoy use of that burgh tenure all his days but cannot pledge (pawn) it or sell it. And if, on the same day the son and daughter are born , the mother and child die, then the man can enjoy the use of it all his life. As long as the man has witness of twelve honest men or women neighbours that held the child scream or cry or yell. And so if he received many lands with his wife in marriage. If he has no child with his wife, the lands will go to his wife’s next heir.

**xLii. Concerning land sold out of necessity (for reason of poverty)**

All men can legitimately give or sell land he has from conquest to whomever he wishes. But if forced by poverty to sell his property he shall at the three principal meetings offer that land to the nearest heirs. If the nearest heirs want to buy that land , they shall find for him necessities such as food and clothing just as they would for themselves. The clothing should be of one colour, grey or white. If they are unwilling to do this or have not the ability to do this, it will be lawful for him to sell the aforesaid lands as well as he can to another person. And if the heir is outwith the kingdom in a neighboring kingdom, he should wait for 11 days. If in another kingdom, he should wait for two times 11 days and so on for farther kingdoms. If the heir is absent through illness for longer than the aforesaid term it will be lawful for the poor man to sell his lands where best he can.

**xLiii. Concerning the challenge of land within the burgh**

If any burgess is challenged of his lands or tenement in the burgh, he does not have to respond to his adversary without the king's letters, unless he wishes to do so spontaneously. And he who is challenged can run to delays and rational excuses once, twice and three times. And the fourth time he comes to warrant his excuses and respond to the baillies according to the law.

**xLiv. No burgess can take custody of another burgess**

No burgess can take custody of another burgess within the king’s burgh, but he shall come to his house with the town beadle and set him a day at the first court for him to come to answer to him if he will not repay the debt. If he does not come on the set day, he will be in forfeit and he will be summoned to come to the next court to answer and so forth.

**xLv. Concerning a challenge in pilgrimage**

Let it be known that if a man challenged for his land is in pilgrimage or in his errands in lands across the sea he will show his letters in court before the adversary and must wait until he comes home unless he has stayed absent for fraudulent reasons. And if so, according to what is written earlier, he must wait for a period of 11 days.

**xLvi. Concerning a castle and a burgess**

If any man from the castle has wronged a burgess of the burgh, he shall consult the law outside the gates. If any burgess has wronged a man of the castle, he shall consult the law in the burgh about him.

**xLvii. Concerning the organisation of litigation in the burgh**

Let it be known that from fifteen days to fifteen days litigation operates in the burgh for lands as well as for property and the arbitrator cannot, against the will of the man who seeks justice, set a day more than fifteen unless he ( the man seeking justice) wishes to or grants this or the arbitrator through the weakness of the court or the poverty of judgement prolongs the period.

**xLviii. Concerning measures and weights**

Every burgess can have in his house a measure, a rocking stone and weight to weigh his corn. And all measures and stones for weighing must be sealed with the burgh seal. And let it be known that anyone found with a false measure or weight will pay a forfeit.

**xLix. Concerning him who wants to be a king’s burgess**

No man can become the king’s burgess unless he does service to the king as far as pertains to a perch of land at least.

**L. Concerning destruction by fire**

If fire moves from any man’s house and sets fire to the many neighbouring houses, no accusation or trouble should be inflicted on him more than he has since he is affected by enough grief and anxiety. Similarly it is for him who has burned down another man’s corn kiln, but he shall lose his service. If a man loans his kiln to anyone , and it burns, he to whom it is loaned is held to restore it.. But if he has hired it for pennies and it burns he is not held to make restitution in any way.

**Li. Concerning the borrowing of a burgess outwith the burgh**

If a burgess is taken into custody outside his burgh for some debt or forfeit, his neighbours will go surety for him at their own expense if he is taken within the sherrifdom. But if he is taken outwith the sherrifdom, they will go on the expenses of the man who is taken.

**Lii. Concerning entering and leaving sold land**

Whoever sells his land or part of his land, he shall be in the house and shall leave and the other, who is the buyer, shall stand outside and enter. And one shall give the alderman a penny on leaving the land and the other shall give him a penny on entering the land and taking possession. But if they make a change of land between them, each one of them will give two pennies.

**Liii. Concerning legally taking property from a farm**

If a farmer will not pay you your maill (rent) at the end of the term, it is right lawful for you to take his property into your land within the house, without permission of the baillies.

**Liv. Concerning a stranger distrained in the burgh**

If a stranger owes any debt to a burgess, it is lawful for the burgess to take his property wherever he finds him in the burgh. And let it be known that the stranger can at no time cast lots, cut or cavyll with any burgess about any kind of merchandise unless during the fairs when anyone may cast lots and cavyll.

**Lv. Concerning goods lent to the baillies of the castle**

No burgess shall lend to the baillies of the castle through assize and law of the town except to the value of 40 denarii for their goods and that through the space of 40 days. And if within that 40 day term they have not paid back, he will not give them more unless the burgess wants to do so of his own free will.

**Lvi. Concerning a burgess summoned to the king’s court.**

Whoever the burgess may be and he is challenged about some complaint in whatever fee he holds, he will come to the king’s court and offer a legal defence that he will pay the correct penalty to the alderman in his own burgh court. But if he is summoned by a beadle before sufficient witnesses and does not come to the king’s court, the king’s baillie shall come to the warden of that fee and will take a full forfeit from him if he does not have the right defence. But if he comes to the king’s court and there gives a full response and makes no mention of his freedom or his lord’s fee, he will make full right in he king’s court.

**Lvii. Concerning a burgess challenged and not having surety**

If any burgess is challenged or blamed for any misdeed and cannot have burgh surety, the town burgesses can keep him in his own house in bonds for 15 days. After that, if he has no surety, his neighbours shall lead him to the king’s baillie and there he will be received by them and led to the home of the king’s beadle if the burgesses do not have a prison, and there he will be guarded from his challenges. Indeed the beadle shall find for him good strong bonds.

**Lviii.Concerning a person in the burgh smitten with leprosy**

If anyone living or born in the king’s burgh is smitten with leprosy and if he has means through which he can be sustained and clothed, he will be put in the burgh hospital. And if has nothing of his own to live on, the town burgesses will make a collection among themselves by which they will sustain and clothe him up to the value of 20 shillings. Lepers may not enter the town, neither going from door to door nor passing through the town, but shall sit outside the town and there seek alms from those entering and leaving. Furthermore no man must offer shelter to any leper within the burgh on payment of a full fine.

**Lix. The sale of bread or ale by baillies**

No alderman baillie nor beadle can make bread or ale to sell.

**Lx. Concerning bakers and fish sellers**

Bakers who make bread for sale make white and grey bread according to the price and approval of the good men of the town as the time demands. And the baker will have to win from each chalder after, as it shall be seen by the good men of the town[[8]](#footnote-8). Also no one who makes bread for sale may hide it but will place it in his window or in the market where it will be sold to the general public.

And he who has been convicted for not doing so will pay 8 shillings forfeit and the bread that was hidden will be given out to the poor.

And the same goes for sellers of fish.

**Lxi. Concerning the customs of ovens**

Whoever has his own oven shall hold in the furnace the customs of our lord the king after the approval of the good men of the town. To wit, that no one will have in his oven more than 4 servants or a master , two servants and a hireling. The lord of the oven shall have each time for his oven a halfpenny (or bread), the master of the oven a halfpenny, the two servants one denarius and the hireling a farthing. And these men must be loyal and of good reputation and shall swear loyalty to the king and the town community.

**Lxii. Concerning servants in the mill**

Whoever serve in the king’s mill or have it to farm shall not have servants in the mill without the approval of the good men of town and those who are loyal with good reputation will swear loyalty to the king and to their masters and men who come to the mill. The multure[[9]](#footnote-9) must be taken and saved for their masters. For men coming to the mill, for corn to be kept and the correct multure to be taken , for the location of the mill known as their realm – all of these must be loyally held by each one of them.

**Lxiii. Concerning the office of maltster (brewer) and their forfeits**

Whatever woman wants to brew ale for sale shall brew for the whole year, according to the custom of the town. If she does not do this for a year and a day, she shall be suspended from her office. And if she makes ale . And if she makes approved ale for that time she will stand well. But if she makes bad ale and against the custom of the town and is convicted for this, she will give 8 shillings in forfeit or endure the justice of the town viz she will be placed upon the cookstool[[10]](#footnote-10) and two parts of the ale will be given to the poor and the third part to the brothers of the hospital.

The same judgement will be made for mead as for bad ale. And every brewster shall put a sign for beer outside her house at her window or above her door so that it is visible to all and sundry. If she does not do this, she will pay a fine of four denarios .

**Lxiv. Concerning the office of fleshers (butchers)**

Whoever wants to sell meat shall sell good meat i.e. beef, mutton and pork and shall sell it after the approval of the good men of the town and shall place these in his window so that all who want to buy shall see them. Moreover, fleshers shall serve the burgesses in time of slaughter, that is to say from the Feast of St Martin up to Christmas, from the meat to be prepared and made ready in their larders. Further, if bad meat is prepared, the flesher will return the damaged meat to him who owned the beasts. While fleshers serve the burgesses, they shall eat at their table with their servants. And they shall have a halfpenny for one cow or ox, or for 5 sheep or for a pig.

**Lxv. Concerning animals to be sold and slaughtered**

No one living outside the burgh of our lord the king shall buy beasts for slaughtering before the third beat (ie mid-morning) in winter and the first in summer. Moreover, the proper fleshers of the burgh shall buy beasts for the town’s use at any hour of the day. And no flesher shall slaughter or sell beasts at night, but in broad daylight and in his booth with the window open. And he who is convicted of doing otherwise shall pay a fine of 8 shillings.

**Lxvi. Concerning hawkers**

Hawkers who buy and re-sell for profit shall not buy anything for re-selling before the third bell in winter and the first in summer. They shall neither buy nor receive wool worked or any colour but white, nor yarn, nor any suchlike items except during the time of the fairs. And if anyone is convicted on this he will pay a fine of 8 shillings and shall lose the items of this kind that he has purchased.

**Lxvii. Concerning sellers in general in the burgh**

All sellers in general, i.e. sellers of ale, bread, meat or fish, shall sell to everyone, to those passing through as well as those entering and leaving and they shall not keep anything in their houses for the use of their household except to the value of 4 denarios for all that is left for anyone to buy. And anyone convicted of behaving otherwise shall be fined 8 shillings.

**Lxviii. Concerning false weights or measures**

If anyone has knowingly given false weight or measure either in wool or in animal tallow or pig lard or any such items and is convicted for this, he will pay a fine of 8 shillings (and be subjected to the town’s judgement) . And then he will be chastised by the baillies of the burgh by being fined for the first second and third time. On the fourth time, he will be at the king’s mercy for his life and limb for such falsehood is a matter for the king and the burgh forfeit does not exceed 8 shillings. And in this case, the king’s fine is ten pounds so it is a matter for the king.

**Lxix. Concerning the public crier consenting to falsity**

If the public crier in the king’s burgh consents to falsity or takes any reward for lowering or diminishing the town’s constitution and is thereby convicted he shall pay 8 shillings fine and shall be stripped of office and his hire and will nevermore be trusted.

**Lxx. Concerning the election of burgh officials**

At the first court after the Feast of St Michael, the aldermen and baillies shall be chosen through the council of the good men of the town who are loyal and of good reputation. And they shall swear loyalty to the king and the burgesses. They shall also swear faithfully to maintain the customs of the town ( and they shall not make judgement on any man or woman) on account of anger or hatred or fear or love of anyone but through the stated counsel and law of the good men of the town. They shall also swear that neither for fear nor love nor hatred of anyone nor for blood relationship nor for loss of money, they shall spare to do justice to all men.

**Lxxi. On choosing the criers in the burgh**

The criers shall be chosen communally by all the burgesses who are loyal and of good repute and they shall swear loyalty to the king and the burgh officials and the burgesses in full court.

**Lxxii. Concerning forestallers in the burgh**

No one living in or outside the burgh shall be so bold on market day as to go out through the gates of the burgh to buy anything before it comes within the town gates. And whoever is convicted of this shall pay a fine of 8 shillings.

**Lxxiii. Concerning fish brought for sale**

Anyone bringing fish into the town for sale shall not take it to any house but to the king’s market if he comes through the day. If he comes by night, he shall find a place to stay until morning and then, when the time comes, all of it untouched shall be brought to the king’s market and sold communally to those wishing to buy it. And no one can take it upon himself to buy fish at the sea or anywhere else for it to be resold in the king’s market. And anyone convicted of this shall pay a fine of 8 shillings. If any fisherman is accustomed to come by night and steal fish for the sake of profit or ‘evil genius’ - if convicted, he shall pay a fine of 8 shillings.

Also no man who buys fish to be resold shall buy them or gut them before the first hour in summer and before the third hour in winter. And if so convicted, he shall pay a fine of 8 shillings.

**Lxxiv. Concerning a burgess taken into custody for any misdeed**

If any burgess is arrested for any misdeed and is kept by his challengers within the burgh and says he has surety, he will be led by his challengers through the burgh to the house in which he says he has surety if he is taken captive by day. If he is taken by night with a cry he will be kept and guarded by his challengers and the town guards until the morning so that his nearby neighbours know why he was captured so that if he can have surety, he shall have it. If not, he shall be led to the crier’s house and there guarded by his challengers if they do not have a prison, until he is permitted judgement.

**Lxxv. Concerning the time of coming to litigation in the burgh**

Whoever ought to take right or do right in the burgh shall come to the litigation (sessions) in winter before the third hour and in summer before the first hour. And if he comes before judgements have been made, the appellant will call his appeal and the man who is challenged shall reply in the presence of the baillies and the worthy men of the town in full court. And after the appeal and response, lawful judgement shall be given in court. And if he does not come within their spoken terms, he shall lose his case on that day unless he has a lawful excuse.

**Lxxvi. Concerning challenges made by aldermen or baillies**

If the aldermen or the town criers have a challenge against any man or men they can not nor should they lead witnesses against them in any court or challenge but the defending party shall acquit himself lawfully.

**Lxxvii. Concerning the protection of pilgrims**

If any man has passed through the king’s burgh as a pilgrim, with the permission of the church and his neighbours, to the holy land or to Saint James or to any other holy place on pilgrimage his house and household will be in the peace of our lord the king and of the burgh officials until God brings him home again.

**Lxxviii. Concerning a man challenged by many challenges**

If any man is challenged through another man by many challenges, he will not be held to respond in one day, unless he wants to. But he will be held to respond to sundry men concerning sundry challenges.

**Lxxix. Concerning land put in pledge in the burgh**

If any man has land placed in pledge he can redeem it when he wishes, unless it was pledged for a fixed time. And when that term is still running, his pledge can be offered to him at three court meetings. And if he does not want to redeem it, it shall be sold and the creditor will take his debt. And whatever remains shall be given to him who owed the debt.

**Lxxx. Concerning those who are within (under) age**

No one within age in the burgh may swear oath or bear witness or make answer, but his guardian or protector in whose custody he is can answer on his behalf and receive judgement after the custom of the burgh and the consideration of the worthy men of the town.

**Lxxxi. Concerning the manner of the burgh watch**

For every house in which a man lives who can watch with reason one will be held to watch for cause of danger who when the watchstaff does his rounds from door to door must come forth someone of man’s age who will go out with two weapons when the curfew rings and so shall watch wisely and carefully until dawn. And if anyone fails in this, he will pay 4 denarios, except for widows/single women.

**Lxxxii. Concerning the complaint of a man made blue and bloody**

If a man has made another man (black and) blue and bloody by beating him, the injured man must be heard first whether he comes first or not to make a complaint. And if they are both blue and bloody, he who complains first shall be heard first.

**Lxxxiii. Concerning those convicted of giving false witness**

Whoever is convicted of perjury or giving false witness shall never more be heard in giving judgement or bearing witness.

**Lxxxiv. Concerning having pigs in the burgh**

No burgess living in the burgh is allowed to keep pigs unless he has a keeper following them or feeds them in a sty so that his neighbours do not incur damage.

**Lxxxv. Concerning not putting up men arriving in the burgh**

No one living in the burgh ought to give hospitality to any arrival for more than one night unless he wants to become surety for him.

**Lxxxvi. Concerning establishing peace in the fairs**

This is the constitution of the peace of fairs in the king’s burgh on this half of the Forth, that is to say, after the peace of fairs has been proclaimed, no one will be captured nor attached in those fairs unless he has broken the peace of the fairs in coming to the fairs or indeed going back or in lingering in those fairs. Or unless he was the king’s outlaw or traitor or such an evil-doer whom the church’s grace ought not to defend. If any such evil-doer either breaks the peace of the fairs, he will be kept securely until the courts of the fairs. And then he shall stand and receive the judgement on that of which he was accused.

**Lxxxvii. Concerning stolen goods found in fairs**

If a man finds something in the fair which he says was snatched or stolen from him or lost, he ought to lead him with whom the thing is found to the baillies of the fair and before them he ought to name his master and where he has his house and to find a pledge, in the presence of the baillies of the fair, from the challenger that on the 15th day after the fair he will have the thing that is challenged in a place which the baillies have nominated and there he shall stand to right to his challenger. And if he has no surety, the baillies ought to keep the item until he finds surety for the challenger or else until the courts of the fairs. And if the challenger then comes and finds surety as has been said then the thing will be given to him and the challenger can prosecute his quarrel. But if the challenged man does not come to the courts , the thing will be given to the challenger under good and secure oaths so that if anyone else comes and wants to speak, he shall , at the summoning of the baillies, bring the thing to the place where he got it in the same state as he found it or give the value of the thing if the thing is lost or deteriorated in his keeping and there to do what is just concerning it.

**Lxxxviii. Concerning** **fugitives found in fairs**

If any man finds his bondman who has fled from him in the fair , during the peace of the fair he cannot chase or take him.

**Lxxxix. Concerning a burgess who has drawn another into making a pledge**

If a burgess draws another burgess into a pledge and the debtor dies and the heir does not have the wherewithal to pay his father’s debt excluding the lands which his father has left him he must use the lands as surety for 40 days. And within the 40 days he can offer the said lands at three head courts to his nearest relations and friends. But if they do not want to buy or acquire them, it is lawful in the pledge to sell the foresaid lands where best he can and repay the creditor and the debtor keeps what is left.

**xc. Concerning a burgess who owes debt**

If a burgess owes anyone a debt and at the term has not the wherewithal to pay it except for his lands, the creditor shall keep these lands for a year and a day and within the year and a day offer these lands to his neighbours and friends. And if they do not want to buy or acquire them, the creditor can sell the lands wherever he wishes. And if there is anything left over, it will be given to the debtor.

**xci. Concerning fraudulent redemption of land sales**

If any burgess sells his land for reason of necessity and it has been offered to his nearest relatives and they did not have the money to but it in the purchasing time and afterwards when he saw the said land looked after and productive then some man from among the aforesaid relatives comes and offers to buy it with money fraudulently borrowed, he ought not to be heard nor can he deal with the buyer again in any way.

**xcii. Concerning excuses in the burgh**

Be it known that no excuse is permitted in the burgh in any dispute about challenged land unless a man is proven to be ill by witnesses or he is in the king’s service or has travelled to the fairs.

**xciii. Concerning the shoemaker’s tanning**

No shoemaker tanner can buy hides for tanning at a higher price than that which has horns and ears of equal length.

**xciv. Concerning the merchant guild**

No dyer or butcher or shoemaker can be in the merchant guild unless he swears to carry out his craft with his own hands but with servants under him.

**xcv. Concerning lands given for feu farm**

It is ordained that if any man gives his land in feu farm to another man, with a named farm saved for himself and his family and afterwards the feu farmer (to whom the land has been let) from necessity wants to sell the land, he who gave the said land to feu farm and his heirs shall have a greater right to buy that land than anyone else.

**xcvi. Concerning a man who admits to having done wrong**

If any man challenges another man for having beaten him or done him any harm and places to his loss 100 marks or as much as he wants and the challenged man in reply denies the wrong and the unlawfulness and says ‘ I grant that I have done other than I ought to have done to you and I am prepared to make amends in the presence of worthy men’ – in this way he shall amend it.

And if he does not make such a response but sustains his whole claim and wholly denies it and at the day of law he fails in his acquittal, he will be convicted and condemned to all the harm his adversary can put upon him.

**xcvii. Concerning taking a burgess from another burgh into custody**

No one can poind his neighbour from another burgh debt or trespass unless he is his chief debtor or ower of a pledge unless the baillie has failed to give him justice because he is absent.

**xcviii. Concerning the custody of a burgess’s heir**

If it happens that a burgess dies, his heir, if under age, and his cattle will be in the custody of his family on his mother’s side and the whole inheritance shall be in the custody of the family on his father’s side.

**xcix. Concerning a burgess evicted from his property**

This is the assize of Newcastle, that when any burgess is in possession of any land whether rightly or wrongly and another man comes along saying he is the true heir of that land and evicts from the foresaid land and property on his own authority and without jurisdiction. Whether it is asked (of the burgesses) that he who first was in the property should recover his seizing from the man who evicted him before he can answer him. And the reply given is that he was first in the property rightly or wrongly must always first recover his property and hold it or lose it in legal procedure. And the person who evicts him will be in forfeiture to our lord the king.

**c. Concerning mis-calling the alderman**

If anyone miscalls the alderman in full court, he must with his friends deny it with open mouth, saying that he has lied and with a pledge for mercy. And afterwards he will swear upon the holy sacrament that he never knew anything bad about him. And if he miscalls him on other occasions, he will be placed in jurisdiction of the alderman and his neighbours until he makes amends.

**ci. Concerning a burgess not transferring lands if he is ill**

It is the custom of the burgh that no burgess who is on his death bed can transfer any lands which he owns by inheritance or which he has acquired when in health from the very heir nor give nor sell to anyone from his heritable property unless he is heavily burdened through need, since need has no law. Or that his heir can not or does not want to deliver him from all his debt.

**cii. Concerning the castellan in the town**

No castellan should enter a burgess’s home for the purpose of killing pigs or piglets or geese or hens. But if he comes to the burgess’s door and asks if he has any of the foresaid be there to sell for the king’s majesty. And if he has, he shall sell. And if he has and does not wish to sell and they are found in the street the castellan is permitted to kill them and the neighbours will price that beast and the price will be given to its owner. And the castellans shall not do this except for three times in the year, that is before Yule, Easter and Whit Sunday and not outside the burgh.

**ciii. Concerning wool-combers leaving the burgh**

If wool-combers leave the burgh (for rural work)[[11]](#footnote-11) while there is enough work for them in the burgh)they will be captured and imprisoned.

**civ. Concerning widows selling in the burgh**

If a widow living in the burgh wants to trade with her neighbours, she must help them in all things and vice versa.

**cv. Concerning the election of liners within the burgh**

The alderman in the presence and counsel of the community should choose liners, at least 4 wise and discreet men so that no complaint will come to the king’s room for defective lining. And if a complaint does come, all will be in forfeit, the baillies as well as the liners. And the aforesaid liners will swear that they will line accurately in length and breadth both at the front and at the back part of the land according to the correct old burgh divisions.

**cvi. Concerning the transfer of the chief tenement**

No man can transfer his chief dwelling house away from his heir, nor give it to his wife as a dowery, if he has anything else or other lands to be given as a dowry or else it has to be sold through need.

**cvii. Concerning the transfer of lands through necessity**

If it happens that any man having lands from heritage or conquest and loves his son and heir so much that he gives his son all his lands within his legal power. And afterwards and inexplicable need comes to the father and he shows his need and that son does not want to help his father, the father can sell or mortgage those lands from heritage and conquest to anyone he chooses. And his poverty must be proven before the sale or transfer by the oaths of 12 legal and honest men, that is 4 living in one part of the land being sold, 4 from another and 4 living across from the house or the transfer will be null and void.

**cviii. Concerning lands given by a father to his children**

If a man has several lands and several children and gives a land to one of them and it happens that all the boys and are under age and in their father’s custody. Then, perchance, after the father’s death, the heir says that the gift from his father was valueless as, for his lifetime, the father took the fruits of these lands. But in this matter, the heir must not be heard, since the father gave the lands in his legal power.

**cix. Concerning excuses and delays**

Be it understood that as many excuses(for not appearing in court) and delays an appellant has, a defender will have the same in cases of damages or injuries or challenges over land, since , in as many ways as a thing of one kind is said, there are just as many ways of saying the rest.

**cx. Concerning a summons made by the king’s servants**

Be it known that a summons made to a burgess within the burgh by the king’s servants must not be heard without the beadle being present.

**cxi. Concerning possession (of land) granted in the burgh**

If possession is given in the burgh before the neighbours of the burgh, although it is outwith the court and has not been spoken about in the court beforehand, nevertheless the possession shall suffice well enough.

**cxii. Concerning the keeping of laws in the burgh**

In every burgh of the kingdom of Scotland, the chief man (mayor or alderman) of that burgh shall make 12 of the most capable and most discreet legal burgesses swear by oath that they shall preserve and maintain all laws and just customs as legally as they can.

**cxiii. Concerning debt and borrowing**

For a debt, there will be one debtor and one pledge and one forfeit for a misdeed. And although there may be several borrowers, there will be only one merciment.

**cxiv. Concerning the sale of hereditary burgage**

If any heritage of burgage falls to any man or woman in the burgh or sisters on the father’s or mother’s side. and it is necessary for him or them or one of them, on account of their poverty, to sell or mortgage or farm-let it or dispose of it in any way, it is not lawful for him/her or them or any one of them to sell, mortgage or farm let or in any other way to dispose of the aforesaid burgage to any stranger, if the nearest heirs want to buy it or take it in mortgage or farm let.

**cxv. Concerning the dividing up of a burgess’s goods**

It is the custom in all Scottish burghs from time immemorial that if any burgess has children by his legal wife and he dies, the third part of all his goods is owed to the sons and daughters. But his legal firstborn son and heir of the husband and wife shall have the same portion of goods as the other children that is equal to that of the other children unless the firstborn has been put out of the family.

**cxvi. Concerning equipment and household goods pertaining to a burgess’s heir**

If a male or female burgess dies in the burgh, whether he/she has mad a testament or not, concerning everything he/she will give to the their heirs, utensils for the house, e.g. the best table, cover, towel, basin, ewer, the best bed with the sheets and other bedcovers feather bed, lead with a musket, wine barrel, brewing vat, flagon, cauldron, three-legged stand, fire-place, pitcher, crook. These things from the house cannot be left in legacy. Also whatever is built, planted or sown all goes with the ground. Also he shall have a chest, storage chest, plough, farm cart, chariot (2-wheeled cart), a quantity of lead[[12]](#footnote-12), brass pot, frying pan, iron bowl, girdle, mortar, pestle, platter, 12 spoons, a bench, a foot-stool, a wooden sled (to separate wheat from chaff), scales with weights, a spade, an axe. And if the land is inherited, all those things are known to pertain to the heritable right. But they can be sold legitimately if the master has been forced to do so out of necessity or poverty and that will be witnessed by the burgesses. And concerning the aforesaid equipment and household goods all and single, the best things belong to the heir.

**cxvii. Concerning a burgess attached within the burgh**

If any man living in the burgh is attached for any reason through the king’s baillies, he shall not be taken outwith the freedom of the burgh to the castle or any enclosed place unless he has no security.

**cxviii. Concerning the transgression of a burgess’s wife**

If a burgess’s wife offends her neighbour in any way and finds persons to stand as surety for her to the law without the consent of her husband and if in the court she falls into a foolish response and is convicted for any transgression she has committed by the judge, her husband is not beholden to answer either for her crime or for mercy or for petition or grievance beyond the sum of 4 denarios unless he wants to. Nevertheless, he shall consider her ignorant and behaving negligently without her husband’s counsel , and shall chastise her as if she was a child since she acted outwith his authority.

**cix. Concerning the lining of land in the burgh**

If any land is lined in the burgh by the baillies and honest men with either party present and they lay the marks and sasine of those marks is held and in use for one year and one day, it cannot be lined in another way . But if any mark is removed, the baillie will be held to the complainer.

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. [↑](#footnote-ref-5)
6. [↑](#footnote-ref-6)
7. [↑](#footnote-ref-7)
8. [↑](#footnote-ref-8)
9. [↑](#footnote-ref-9)
10. [↑](#footnote-ref-10)
11. [↑](#footnote-ref-11)
12. [↑](#footnote-ref-12)