

29th
May
1788

Unto the Hon^{ble} the Sheriff Deputy of Brekney
or his Substitutes

The Petition of J^m Gillies of Brekney

Humbly Sheweth

That as your Lordship after considering the
Petition of John Gillies and Infring^g objection
for the Defender & proof adduced was pleased
by your Deliverance of the 2th Inst^l To find the
said John Gillies & his Constituents obliged
to burn the sea weed growing on the shores
of the Town of Brekney until they should be
regularly removed y^e from and to interpell
and interdict the Def^e all y^e from burning
any part y^e of until such removal and to
refuse action to the Def^e all y^e for that effect
and for their interests in the proceeds of the said
shores and also to find the Def^e liable to
the Purse expenses & to decern accordingly

The Def^e begs liberty to reclaim ag^t that Judgment
or Deliverance and hopes to be understood in
the most favourable light on the reasons of
his not giving obedience to this Declaratory De
liverance as he objected to the competency of this
Court and had all along in the course of this
extraordinary action observed that neither the
Def^e nor his Constituents could justly claim
any such exclusive title and the Def^e will be
allowed to plead that the Deliverance upon it
is equally extraordinary & unproceeded and
is contrary to all Law equity & Justice and
utterly illegal arbitrary & partial & without any
just foundation It would be to stretch your Lord
ship's authority beyond its proper bounds and to delive
away the right of the Def^e to which he is not bound
to give obedience, nor simply to acquiesce or surrender it

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it to enjoy. And iffore the Def cannot be under
stood as having contemned your Loy Authority
as it has exceeded the Law and as his Right
and Title of Property are w^out your reach

That the Def is a considerable Person in the Town
of Ireland is so far from being objected to that it
has been admitted even by the Purser and
employed in your Loy of Detourance and as such
the Def is to be entitled to a proportional
Share of the Tang or Keep Stores of the whole
Town and of a like share of all the of pertuents
and proceeds of it in proportion to his property
in it and to use & exercise his just rights of it
accordingly and with the same freedom & liberty
as any of the Proprietors. And as the present action
refers us to a Declaration of Property your Loy
knows that the Sheriff is no competent Judge in it
and iffore cannot find, declare, decree or ordain
up the Purser or his constituents solely entitled to
cut or burn the Sea Weed growing on the shore
or to see the sole or only Keep on either of exclusive
or in prejudice of the Def or of the of Proprietors
nor bind them to give obedience to such a par
tial unequal & arbitrary a sentence. The only
alternative for the Def would be to maintain
his right to the outmost or simply to yield or
relinquish it to any of the of Proprietors
back from that of person. But he is resolved
rather to maintain & keep his rights than suffer
himself to be deprived of it on any such unjust
ifiable Terms —

But to enter still more fully into the merits of the
Purser Cause, Neither he nor his constituents or singular
successors or any ways representing his Predecessors or
author could derive any such exclusive right or title

By practice or otherwise to themselves as they seem to claim
no such transference could be made and no such
title can be valid just or claimable. Or if they have
any such pretended right or title it ought to be shown
and produced. That of itself makes a mean and disposition in such
a wrong course, greedy to reap and devour the
proceeds of their Neighbour's Property by having it in
their power, on the false pretence of being entitled
to it and to be only accountable at their pleasure or when
they are legally compelled. This Claim is otherwise
is founded in itself & so selfish & unjustifiable that
it ought not to be admitted or countenanced or drawn
into practice by any Court of Justice or otherwise
would prove of the worst of consequences -

The Defendant really at a loss to figure to himself upon
what foundation your Lordship finds the Purport his
Constituent solely entitled to burn the sea faced growing
on the Shores of Ireland until they should be regu-
larly removed & sold or upon what grounds or
pretence you interpell & interdict the Defendant
from any part of it until such removal, Neither
the Purport nor his Constituent can have any just title
but to their own Shares and the Defendant & all the other
Proprietors must have equal right to their respective
Shares of it. No exclusive title could be acquired by
or accrue to any of them by practice for any length
of time & such practice by permission or tacit consent
from time to time is revocable at any time & needs
no proof for or against -

Your Lordship must also know that as this is a claim
of the nature of Property no right to it could
be valid but by authentic Title. But as there is neither
a written nor a verbal right pretended there can be
no title to such a vague exclusive Claim. That of
Fang Cutler or the Defendant can be no more than a bare
temporary Office or service which terminates each year
yearly. It cannot be called a possession on which any
action of removal is requisite. Besides a voluntary
the Defendant as the Purport would seem to be cannot
force

force or obtrude himself or his service upon the Deft
nor could the Deft Compell him to offend as such
so that both party must be equally free and liberty
as to their affair. In the present case the Deft has
resumed his own right & is in the immediate and
actual exercise of it in virtue & in vindication of his
own Title. And was in the exercise of it before the
Dwarf began to work & before he was thus interrupted
by him and does not mean to stop or hinder the Dwarf
unless he be stoppt or hindered himself so that in no
sense or upon no just foundation could your say
prefer or Intitle the Dwarf or his constituents to the sole
or exclusive right or rather office of Tanglomen or Holym
maker general upon the shores of the Town of Shel
of which the Deft is a considerable proprietor or to
interpell or interdict him or any of his heirs from their
proper use or exercise of their just rights or of ways
deprive them of their Property or any part of it, of
which your say and the competent Judge

Your Petitioner is really sorry that your say
has had so much needless trouble in this needless
affair & hopes he will be not only forgiven but also
commended for not giving implicit obedience to your
say of Delivrance & Jurisdiction & for reclaiming agt it
for the reasons herein set forth & is equally sorry to have
such unnecessary disputes wth the Dwarf or his constituents
who ought in justice & rather to rest satisfied wth their
own just share of these shores & to allow the Petitioner
his share and both party ought faithfully & duly
to acco^d to each o^r and to the o^r thereons according
to their respective proportions of the whole

May it y^r please your say to consider the pre
misses & to revoke & allow your say of Delivrance
or to dismiss this action simpliciter as in
competent unjust frivolous & vexatious &
to find the Deft intitled to his exponses

According to Justice &c
(Signed W^m Hales)

To D^{ist} The Sheriff advised to his former interlocutor

Petition of W^m
Hales of Bea
1788