

No 11.

ders tend only to confirm the general rule. In a period of near fifty years, the defenders have only, after diligent search, been able to specify five tradesmen elected into the merchant-council, and these two at different periods: but the general usage of the burgh has been agreeable to the set. There are often illegal proceedings at elections, which pass unobserved or unchallenged; but so soon as such abuses come to a height, as in the present case, and are complained of to the Court, they ought to be redressed, and not allowed to pass with impunity.

THE LORDS found, That the election of six tradesmen as merchant-counsellors was contrary to the set of the burgh; and therefore found the election void and null.—(Reversed on appeal.)

Act. *A. Pringle.*Alt. *Miller.*Clerk, *Kirkpatrick.**G. Cockburn.**Fol. Dic. v. 3. p. 99. Fac. Col. No. 25. p. 42.*

1761. February 3.

JAMES RODGERS and Others, members of the Town Council of Selkirk, *against*  
ANDREW HENDERSON and Others.

No 12.  
Minors, tho' members of an incorporation, are not entitled to vote at a burgh election.

THE five incorporations of the borough of Selkirk have each of them a deacon and a colleague, who represent them as members of the council. At the annual elections, each of these incorporations sends a leet of four to the council, who return a short leet of two, one of whom must be the chosen deacon, and he chuses a colleague to himself.

James Rodgers and others, members of the town council of Selkirk, complained of certain irregularities committed in the annual election of that borough for the year 1760; and, among other things, it was *objected*, That two minors who had been admitted members of the incorporation of taylor's, had voted in adjusting the long leet transmitted by that incorporation to the council; and that this was contrary to law, as no person under the age of 21 can have a vote in any step of an election, whether of deacons, magistrates, or counsellors, in a borough, or in meetings of freeholders in a county.

*Answered, 1mo.* The objection was not instantly verified when the persons complained of took their votes. *2do.* A minor may be admitted a member of an incorporation, and when once admitted, he is of consequence entitled to all the privileges competent to any other member. The law secures minors against being hurt, but does not deny them the exercise of their civil rights, which can be attended with no lesion or disadvantage. It is indeed true, that a minor cannot vote in the election of a member of Parliament; but that is by special statute, which supposes that they are not disabled at common law; and though the legislature has not thought proper to instruct them in a matter of so great importance as the election of a member of Parliament, there appears no reason why they should not have a vote in the election of a deacon.

' THE LORDS sustained the objection ; and found, that the persons complain- ed of being under the age 21, could not vote.' See MINOR.

No 12.

Act. *Montgomery et Burnet.*  
*J. Campbell.*

Alt. *M<sup>c</sup>Queen et Lockhart.* Clerk, *Pringle.*  
*Fol. Dic. v. 3. p. 99. Fac. Col. No 14. p. 24.*

1776. December 13. FOTHERINGHAM against LANGLANDS.

Two burgesses of Brechin pursued a reduction of an election of the deacon and treasurer of the hammermen, and declarator that they themselves had been elected by a fair majority to those offices ; and, in support of the plea, urged the immemorial usage of the burgh, by which the same person might be a member of different corporations ; thus it was *alleged*, That a slater and butcher were members of the corporation of glovers ; a weaver, a shoemaker, a wright, and a carter, were members of the corporation of bakers ; and a writer was a member of the corporation of taylors ; and it was urged, that unless this practice were allowed, some of the corporations would be extinct.—THE LORDS were of opinion, That the practice was most irregular, therefore repelled the reasons of reduction, and assolizied from the declarator.

No 13.  
 Found to be irregular, that the same person should be a member of different corporations.

*Fol. Dic. v. 3. p. 99.*

1778. August 7.

JOHN DALRYMPLE, and Others, against JAMES STODART, and Others.

THERE are 14 incorporations in the town of Edinburgh, who have each a deacon chosen annually by the craftsmen. Out of these deacons, six are chosen by the old council into the new, and vote in all questions as a part of it. The other eight, who are called extraordinary deacons, have only a vote in electing the magistrates, and certain other matters.

The incorporations, in electing their deacons, are each obliged to give in a leet of six persons to the town-council, from which a leet of three is sent back to them by the council, out of which the deacon must be chosen.

This restraint on the freedom of their choice had, on former occasions, been complained of as a grievance. In 1777, Mr Stodart, then a counsellor, moved in council, ' That the magistrates and town-council should make an application to the Convention of the royal burghs, to alter, by their authority, this part of the set ; and to declare, that each incorporation of the city shall be at liberty to elect a deacon yearly, in time coming, from any of their own freemen, in a free election, without any controul by having their leets shortened by the town-council.'

No 14.  
 The Convention has no power to make alterations on the set of a burgh. See No 4. p. 1839.