

Robert Alexander, merchant in Edinburgh, who had truly advanced the money, who was at the same time candidate for the district of which Pittenweem was one of the burghs, and by whose influence it was that these gentlemen had got into Council.

But an opposite interest now prevailing after a poll election in the burgh, the present Magistrates brought a reduction of the bond against Mr Borthwick and Mr Alexander, at least so far as related to the burgh. The Lords, (1774,) "found the community not subjected in payment of the bond libelled, and reduced the same so far as related to the community; reserving all action to Mr Alexander against the granters in their private capacity; and, to them, all defences as accords: found expenses due."

For it occurred to the Lords, that, although the Magistrates in possession of their offices may carry on law-suits, in name and for behoof of the community, and load the community with the expense of these processes, whether successful or not; yet, to allow a corrupt set of Magistrates, who may have got into their places by most unlawful means of bribery, corruption, fraud, falsehood, &c. to maintain themselves in their places, at the expense and with the money of the burgh, would be most unjust, and evidently tend to the ruin of every burgh where the case occurred. It seems to be a general rule, that, in the expense of all processes of this nature, in competing who should be in and who should be out, the common good of the burgh in many matters should not be affected.

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1776. *March 9.* TURNBULL, &c. WEAVERS OF RUTHERGLEN *against* CROOKS.

WHERE a seal of cause, or letters of deaconry, in a royal burgh, has been granted by Magistrates to a particular corporation, it has been contended that the same cannot be altered by the incorporation without consent of the Magistrates; so found by Lord Covington, (9th March 1776,) in a dispute among the weavers of Rutherglen, Turnbull, &c. against Crooks, &c. The argument in the papers was pushed a degree farther, and it was held, that, if the seal of cause, or letter of deaconry, was recorded in the minutes of the convention of burghs, it could not be altered without their consent.

The fact, however, was, that the seal of cause in question was not recorded in the books of convention; neither is such recording usual; therefore the Lords, on advising a reclaiming bill and answers, went no farther than to find that a letter of deaconry granted by Magistrates could not be altered by the corporation itself, without their consent. And in this they seemed unanimous.