

Counsel for the Petitioners—Lorimer.
Agents—Morton, Smart, & Macdonald,
W.S.

Saturday, November 16.

FIRST DIVISION.

BORLAND v. ANDERSON'S JUDICIAL
FACTOR.

*Expenses—Proving the Tenor—Judicial
Factor on Estate of a Person who had
Illegally Removed an IOU Defending
a Proving of its Tenor.*

In an action of proving of the tenor of an IOU alleged to have been granted in favour of the pursuer by the late Mrs A, the *casus amissionis* alleged was that Mrs A had wrongfully removed the IOU from the pursuer's repositories. The action was defended by a judicial factor appointed on Mrs A's estate. After proof had been led, and the Court had intimated that decree would be granted, the pursuer moved for expenses against the judicial factor on the ground that, as the action had been rendered necessary by the illegal proceedings of Mrs A, her estate ought to bear the expense—*Brown v. Orr and Others*, January 21, 1872, 10 Macph. 397, 9 S.L.R. 232.

[LORD ADAM—Here no additional expense was caused by the defence.]

The Court decerned in terms of the conclusions of the summons, but found no expenses due.

Counsel for the Pursuer—M'Lennan.
Agents—Miller & Murray, S.S.C.

Counsel for the Defenders—M'Clure.
Agent—F. J. Martin, W.S.

Thursday, November 21.

FIRST DIVISION.

THE INCORPORATION OF TAILORS
IN GLASGOW v. THE TRADES
HOUSE OF GLASGOW.

*Incorporation—Trade Incorporation in
Burgh—Sanction of Court to Bye-Laws
—Burgh—Glasgow Trades House—Burgh
Trading Act 1846 (9 and 10 Vict. cap. 17),
sec. 3.*

Section 3 of the Burgh Trading Act 1846 makes it lawful for a trading incorporation to make bye-laws "relative to the management and application of its funds, and relative to the qualification and admission of members," and to apply to the Court for its sanction to such bye-laws. It further provides for the Court hearing objections to such applications by parties "having an interest."

The incorporations of Glasgow elect members to a separate incorporation known as the Trades House, which was constituted by Letter of Guildry in 1605. Section 40 of the Letter of Guildry provides that the chairman of these representatives, with the advice of the others, is to "make acts and statutes for good order among" the incorporations.

In 1857 the Incorporation of Tailors in Glasgow passed a bye-law by which it was provided that "the members of the Incorporation shall have power to make bye-laws when confirmed by the Trades' House."

The Incorporation of Tailors presented a petition to the Court for its sanction to certain new bye-laws by which, *inter alia*, a residential qualification was placed upon all applicants for admission, and power was given to the Master Court of the Incorporation to consider the eligibility of all such applicants. The petition was opposed by the Trades House on the ground (1) that they had not confirmed the bye-laws, and that such confirmation was essential under the section of the Letter of Guildry and bye-law quoted above, and (2) that the proposed changes were inexpedient and inequitable. The Court *repelled* the objections stated, and *granted* the petition.

This was a petition presented by the Incorporation of Tailors in Glasgow under section 3 of the Burgh Trading Act 1846 for the sanction of the Court to certain additional bye-laws. The petition was opposed by the Trades House of Glasgow, and by certain members of the Tailors Incorporation, upon the ground (1) that the Trades House of Glasgow had not approved of the proposed bye-laws, and (2) that on the merits they ought not to be sanctioned.

By the Burgh Trading Act 1846 (9 and 10 Vict. cap. 17), which was passed for the abolition of the exclusive privilege of trading in burghs in Scotland, it was enacted—Section 1—"That from and after the passing of this Act all such exclusive privileges and rights shall cease, and it shall be lawful for any person to carry on or deal in merchandise, and to carry on or exercise any trade or handicraft in any burgh and elsewhere in Scotland, without being a burghess of such burgh, or a guild brother, or a member of any guild, craft, or incorporation." Section 2—"That notwithstanding the abolition of the said exclusive privileges and rights, all such incorporations as aforesaid shall retain their corporate character, and shall continue to be incorporations with the same names and titles as heretofore, and nothing herein contained shall in anywise affect the rights and privileges of such incorporations, or of the office-bearers or members thereof," except as regards the abolition of the said exclusive privileges. Section 3—"And whereas the revenues of such incorporations as aforesaid may in some instances be affected, and the number