

1774. August 6. JAMES LIVY *against* DAVID MUDIE, &c.

COMMUNITY.

Magistrates, charged to pay a sum due by bond granted by them in their corporate capacity, were found entitled to suspension, without caution, on granting conveyance of or security on the Town's funds,—not being personally liable, except while in office and while the funds are under their administration.

[*Faculty Collection, VI. 353 ; Dictionary, 2512.*]

COALSTON. A bond granted by magistrates, as representing the community, makes the community the debtor. The charge ought to have been against the present magistrates. The magistrates may be free by giving up the funds of the community: they are not personally bound to pay the debt. This charge is not against the magistrates for the time being. There is another ground, that the granters of the bond were guilty of fraud by borrowing money when they knew that the burgh was bankrupt. But that will not do in the present shape: the question must be tried by a common action.

On the 6th August 1774, "the Lords passed the bill without caution;" altering Lord Kennet's interlocutor on advising with the Lords.

*Act.* A. Elphinston. *Alt.* A. Lockhart.

1774. August 9. ALEXANDER and ANDREW STEWARTS *against* DANIEL CAMPBELL of Shawfield.

MEMBER OF PARLIAMENT.

Effect of a restricted enrolment upon the request of the party at the Michaelmas meeting, without a previous claim being lodged for that restriction. Is a complaint of such enrolment, at the instance of other freeholders, competent under the authority of the Act 16th Geo. II., where no objections were lodged upon a change of circumstances?

[*Faculty Collection, VI. 355 ; Dictionary, 8834.*]

PRESIDENT. The proper way to try the question is by a claim and objection. This case falls not within the Act of Parliament.

ALEMORE. To speak in the style of the day [the races] I should be sorry to see a horse cut out who is likely to yield so much sport. The case of restricting is within the spirit of the Act. Were it otherwise, the consequences might be dangerous to the rolls. It is said that an objection may still be given in. *Answer,* With less ingenuity than is used in this case, Shawfield might be kept on the roll notwithstanding any objections.

PRESIDENT. In my opinion the restriction at the last Michaelmas meeting goes for nothing.

JUSTICE-CLERK. From the nature of the thing a gentleman enrolled upon a