

No 18. January 1685, No 14. p. 2510. ; Lawson against Simson, &c. February 1686, No 15 p. 2510. ; Bowie against Wilson and other inhabitants of Culross, 7th February 1695, Fountainhall, v. 1. p. 667. No 16, p. 2511. ; and, for the charger separately, Town of Aberdeen against Lesk, &c. 11th January 1678, No 16. p. 1866. Bankton, b. 4. tit. 19. § 2.

*Observed* on the Bench, Where a bond is granted by Magistrates for the community, it is the community that, in such a case, is bound ; and the Magistrates for the time being are charged, in which case they suspend the charge, on making over the funds of the community, for they are not personally bound. The charge of *fraud*, which is another ground insisted on, will not do in the present shape, but by an ordinary action against them as individuals ; therefore the bill ought to be passed simply.

‘ Which the Court accordingly found.’

Act. *Elphinstone.*

Alt. *Dean of Faculty.*

Clerk, *Campbell.*

*Fol. Dic. v. 3. p. 141. Fac. Col. No 133. p. 353.*

1779. *November 18.*

JOHN ANDERSON *against* THOMAS MORTON and GEORGE ALEXANDER.

No 19.  
Found in  
conformity  
with the a-  
bove.

THE weavers of Portsburgh, which is the burgh of the barony of Dalry, were erected into a society, by a seal of cause from the Lord of the barony, and are governed by a deacon and boxmaster, who are chosen annually.

Anderson acquired right to a bond granted by the office-bearers of this community ; and, in an action for payment, demanded a *personal* decret against Morton and Alexander, their successors in office ;—who *objected*, That societies not united into a body politic by the Sovereign, not being proper incorporations in the eye of law, their managers could not *ratione officii* be liable, personally, for monies borrowed by their predecessors in office ; and that the creditor in these monies could only attach the funds of the society in their hands as the servants of the community ; Kames' *Elucidations*, art. 54.

THE COURT admitted the distinction between lawful societies and incorporations properly so called ; and ‘ found, That no action lay against the present office-bearers of this company or incorporation, for subjecting them personally, or their own proper effects, to the payment of the bond pursued on, but only for the special purpose of affecting the funds of the company for the same.’

Reporter, *Lord Gardenston.*

Act. *Geo. Ogilvie.*

Alt. *Tyler.*

Clerk, *Campbell.*

*Fol. Dic. v. 3. p. 141. Fac. Col. No 91. p. 176.*