

COMMUNITY.

1774. *January 29.* BURGESSES OF STIRLING *against* MAGISTRATES.

IN the administration of the affairs of a community, as of a burgh or hospital, the Magistrates, or other administrators, cannot, under cover of a price elusory, make alienations of its property; and therefore the Town-council of Stirling, as patrons of Cowan's Hospital, having disposed two superiorities in liferent, for the purpose of making two votes in the shire, to two gentlemen to vote at the county election, at the price of twenty years' purchase of the feu-duties, about £5 sterling; and a reduction of this having been brought at the instance of certain guild brethren and burgesses of Stirling;—the Lord Hailes, Ordinary, pronounced this interlocutor, (29th January 1774):—"Having resumed consideration of this cause, and, in particular, that, from the deeds under challenge, there is evidence of a gratuitous alienation, though under cover of a price stipulated; and that the patrons of Cowan's Hospital have, as such, no power of gratuitous alienation: therefore, refuses the desire of this representation, and adheres to the former interlocutor, reducing the deeds." Summer 1774, the Lords adhered.

At the same time, if a sale is made for a just and adequate price, with no intention to defraud the community, but, on the contrary, such transaction will not be challengeable at the instance of every private burghess, who may take it in his head to say, that, had his advice or offer been taken, a little more profit might have been made of it.

So the Lords thought, February 1775, *James Wilson and Others against John Story and the Magistrates of Paisley*, for reducing a liferent right granted by the Magistrates to Story, of the superiority of the lands of Carriagehill, belonging to the burgh.

See Title to Pursue.