

No 33. their votes ought not to have been taken in the election of the corporation of weavers in Kinghorn upon 26th September last,' &c.

For the Complainer, *Dean of Faculty, Alex. Fergusson, et alii.* Alt. *Tait, Hope, et alii.*
Craigie. Fol. *Dic. v. 3. p. 101.* Fac. *Col. No 87. p. 157.*

Nota, A similar determination was given in several other questions of the same kind.

1791. February 23. ALEXANDER BIRTWHISTLE *against* LORD DAER.

No 34.
 The being a Peer's eldest son does not disqualify for a place in the council of a burgh.

LORD DAER, the eldest son of the Earl of Selkirk, having been a candidate for the office of provost of the burgh of Kirkcudbright, it was

Objected: That being the eldest son of a Peer, he could not be elected either as a magistrate or as a counsellor of any burgh.

Answered: There exists no law or regulation, to disqualify the eldest son of a Peer from being a counsellor in a royal burgh. Were it even supposed to have been determined by the Scottish Parliament, that a Peer's eldest son could not sit as the representative of a county or a burgh, and that this should have the effect of excluding from the British House of Commons, such a disqualification could not be extended, by implication, to the case in question.

THE LORDS repelled the objection.

Act. Solicitor-General, Rolland. Alt. *Dean of Faculty.* Clerk, *Menzies.*
Stewart. Fol. *Dic. v. 3. p. 101.* Fac. *Col. No 165. p. 335.*

1797. June 17. DAVID AITKEN *against* ALEXANDER CHALMERS.

No 35.
 The meeting of council, to fix the day for electing a delegate to chuse a member of Parliament for a royal burgh, must be called, but need not be held, within two days after the precept is received by the chief Magistrate.

THE Sheriff's precept for electing a delegate to chuse a member of Parliament for the royal burgh of Culross, was delivered to Alexander Chalmers, the chief magistrate then within the burgh, on the 30th May 1796. He immediately marked on the back of the precept, the date of his receiving it, and, at the same time, summoned the council to meet on the 2d of June, to fix a day for naming their delegate.

David Aitken, one of the deacons, was present at the meeting of the 2d June, and made no objection to its regularity; but, in a petition and complaint, he afterwards stated, that, by 16th Geo. II. cap. 11. § 42. it is enacted, that the chief magistrate of the burgh, shall, under penalty of L. 100 Sterling, 'within two days after receipt of the precept, call and summon the council of the burgh together, by giving notice personally, or leaving notice at the dwelling-place of every counsellor then resident in the burgh; which council shall then appoint a peremptory day for the election of a commissioner for chusing a Burgess to serve in Parliament;' and that, as the meeting, in this case, was not held till the 2d June, three days after the precept was received, the penalty was incurred.