

same time it has been usual for the Magistrates to publish an annual order, "discharging all guard soldiers, chairmen, and others, not entered with the society of porters, or being burgesses of the city, from carrying furniture at the term of Whitsunday, unless they pay twenty-pence into the porters' box for the use of the poor." Accordingly, having issued this order at Whitsunday 1776, the legality of it was contested by certain chairmen; and they, being pursued before the Magistrates, and decreet pronounced against them, presented a bill of suspension of the decreet, which was refused by Lord Covington. And, upon bill and answers, the Lords adhered.

The Lords went upon reasons of police, immemorial usage, and the power of Magistrates.

NOBILE OFFICIUM.

THE case of Lord Monzle and Others, trustees appointed by Mr Campbell, minister at Weem, collected by Lord Kilkerran, p. 518, is a famous case, where the Court, *ex nobili officio*, interposed to prevent a settlement on trustees being evacuated by the death and failure of the quorum. See Principles of Equity, p. 53. This was a settlement for public pious uses. They did the same where the trustees refused to accept, with regard to a sum of money mortified by Mr Gilbert Ramsay to the corporation of New Aberdeen, to be applied for burses to students of divinity in the College. This appears from the papers in the case of Campbell. And the Magistrates having refused to accept, the Lords appointed Sir Alexander Ramsay, to whom the defunct had given the presentation of the bursars, to manage and administrate the mortified sum, and name factors for uplifting the annualrents and apply them in terms of the will.

In Lady Cunningham's case, the two Trustees, Sir John Cunningham and Lady Dalrymple refused to accept, 22d January 1758. The settlement was irrational, and all concerned wished to have it away. The Lords were called by the settlement, on failure of the trustees. A challenge was brought in support of the deed, and, though only a mock-fight, the Lords, by their first interlocutor, found that the settlement had not fallen. But, on a reclaiming bill, they altered, and found that it had fallen.

See Principles of Equity, p. 54; also the case *Campbells* against *Campbell*, mentioned Principles of Equity, p. 55 and 122.

They seem to make a distinction between deeds for private and for public uses.