

dorser, which was the case of *Haliburton*, the merchant who gets the bill must duly negotiate it, otherwise be liable for it; and he said the nature of commerce required this.

And this was the unanimous opinion of the Court.

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1766. *June 17.* MRS SETON *against* SIR JOHN PATERSON.

IN this case the Lords found that a writing having been destroyed by the obligant, it was not necessary that the obligee should insist in a process of proving the tenor of it; but it was sufficient, in a process for payment, to prove what the contents of the writing were, and that it was destroyed; and this might be done by witnesses, without adminicles in writing, such as might be necessary in the case of a proving of the tenor; and this, Lord Auchinleck said, had been several times decided, particularly in a late case, which he mentioned.

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1766. *June 18.* CHARLES INGLIS *against* ROBERT WADDEL.

THE nomination of the clerk to the bills formerly belonged to the Lord Register; but, ever since the year 1730, it has been assumed by the Crown, and the practice has been of a great while to nominate two conjunct clerks of the bills, with power of naming deutes for whom they should be answerable. Two of these conjunct clerks did, in the year 1713, nominate a deute to officiate during his life, and the practice of naming deutes for life has been constant and uniform ever since. And among others, Charles Inglis, present clerk of the bills, was named in that manner deute; but both the principal clerks who named him being now dead, Robert Waddel, one of the two named in their place, insists in a reduction of Charles Inglis's nomination, as having fallen by the death of his constituents.

Charles Inglis's defence was, *1mo*,—That his office, was, by its nature, an office during life; and he having got it in that manner, it must subsist notwithstanding the death of those who granted it. *2do*, That Robert Waddel, one of the principal clerks, had no right to insist in this action by himself, not only without the concurrence of the other clerk, but in opposition to him.

As to the first, Pitfour was of opinion that this office, being an office which required skill and a particular education, was, of its nature, a liferent office, independent of the practice. That, for the same reason, the office of principal clerk of Session was always during life, even when they were named by the Clerk Register; and for the same reason the deute-clerks of Session are during life, though named by the principal clerks; and the sheriff-clerks, though named by the keeper of the signet. But the rest of the Lords were of a different opinion upon the general point, and thought it was impossible that a man who had only his own office during life, could name a deute who was to officiate after his death;