

1664. July 22. EARL of SUTHERLAND *against* M'INTOSH of Conadge.

THE Earl of Sutherland pursues M'Intosh of Conadge for the profit of a regality belonging to the Earl, viz. bloodwits, escheats, &c. whereof Conadge had obtained gift from the usurpers, the time that regalities were suppressed; and declared that he insisted for those only that were yet unuplifted, for which the parties fined had not made payment, albeit some of them had given bond. The defender *alleged* absolvitor, for bloodwits, and americiaments, which might have been done by the Justices of Peace, because, as to these, the English had done no wrong; seeing the Justice of Peace might then, and may now, cognosce and fine for bloodwits, within the regality. The pursuer *answered*, that as he might have repledged from the Justice General, if he had not been impeded by the act of the usurpers, so much more might he have repledged from the Justices of Peace, and therefore any bloodwits discerned by them, belonged to him, as Lord of the regality.

THE LORDS repelled the defence, and found the deed of the Justice of Peace could not prejudice the pursuer.

*Stair, v. 1. p. 222.*

1750. June 9. THE EARL of LAUDERDALE, Supplicant.

THE Earl of Lauderdale shewed in a petition, that he held part of his estate of Hatton off the Prince, the same lying locally within the shire of Edinburgh, and by annexation within the shire of Renfrew; that he was in doubt how to make up his titles to the said lands, as heir to his predecessors, as by an act 20th Geo. II. for taking away heritable jurisdictions, it was enacted, "That all regalities belonging unto, or possessed, or claimed by any subject or subjects within that part of Great Britain called Scotland, and all jurisdictions, powers, authorities, and privileges thereunto appurtenant, or annexed, or dependent thereupon, should be, and they were thereby, from and after the 25th day of March, in the year of our Lord 1743, abrogated, taken away, and totally dissolved and extinguished." And by another clause, "That from and after the said day, all and every act, statute, charter, or grant, whatsoever, whereby any lands lying anciently within one shire in Scotland, were disunited from the same, and annexed to another shire, to which such lands were not adjacent or contiguous, should be repealed, and made void, with respect only to the jurisdiction of the sheriff's or steward's courts; and the lands so disunited or annexed, should, with respect to such jurisdiction only, be, and they were thereby restored to the shire or shires within which such lands did locally lie." By this act, the Prince's regality, and consequently his chancery, was taken away, so that the petitioner could not be served on brieves issuing

No 364.

Regalities cannot be prejudged by the fines of the Justices of the peace within the regalities, but such belong to the lords of regality.

No 365.

Heritors holding of the Prince of Scotland, are to be served heirs to their predecessors on brieves out of the chancery, directed to the Sheriff of the shire where the lands ly, the Prince's regality and chancery being now taken away.

No 365. therefrom, but behoved to have recourse to the King's chancery; and as it might be doubted whether these lands were annexed to the shire of Edinburgh, for the purpose of the said sheriff's granting infeftment, he prayed the Lords to grant warrant to the directors of the King's chancery for issuing brieves, and upon their being retoured, to issue his precept for infeftment to the sheriff of Edinburgh, or to grant other directions according to law.

This petition, which was presented in the end of the winter session, appearing of importance, was ordained to lie over to this day; and, being then moved, it was said for the petitioner, That it did not appear the Prince ever had a chancery, but the method in practice had been, to obtain brieves out of the King's: That the charters of the lands bore them to be annexed to the shire of Renfrew; and that there were among the petitioner's writings, two precepts for infefting his predecessors, at a time when there was no Prince, directed to the sheriff of Edinburgh.

THE LORDS found, "That brieves ought to be obtained out of the King's chancery, directed to the sheriff of Edinburgh, for serving the petitioner heir to his predecessor."

The Lords gave the above interlocutor, as they had the direction of the chancery; but gave no directions in what manner the petitioner ought to be infeft; though, from their reasoning, their opinion appeared to be, that a precept behoved to be obtained from the Prince's commissioners, which might be directed to any person whatever.

Per H. Home.

Fol. Dic. v. 3. p. 360. D. Falconer, v. 2. No 135. p. 153.

## DIVISION XIV.

### Sheriff-Court.

No 366. 1623. February 22. LINDSAY against CRAWFURD.

IN an action betwixt Lindsay and Crawford for certain viccarage teinds of the parochin of Kilbride, question arising *obiter* anent a decret of spuilzie of teinds given by the sheriff of Lanerk, it being *alleged*, that it was null, as given *a non suo judice*, the sheriff not being judge to grant an inhibition, could not be judge to the spuilzie following upon the contempt thereof; the