

No 266. bailie of regality did, from the proprietor of Dalkeith; and, *separatim*, if any doubt should arise as to this, it could only be removed by the Legislature itself.

“ THE LORDS found the baron bailie of Dalkeith must come in place of the bailie of regality, for uplifting the tolls and customs mentioned in the petition, and therefore refused to sequestrate.”

Act. R. Dundas.

Alt. R. Craigie.

Clerk, Kirkpatrick.

Fol. Dic. v. 3. p. 353. Fac. Col. No 20. p. 41.

DIVISION VIII.

Commissary Court.

S E C T. I.

Of Superior and Inferior Commissaries and their Privileges.

1666. December 24. CRICHTON *against* KILPATRICK.

No 267.
Found that
inferior Com-
missaries
have had no
power to issue
confirmations
dative *ad*
omissa.

IN an action betwixt Crichton and Kilpatrick, anent the goods of a defunct, to whom they were both confirmed executors, by two several testaments dative, the LORDS found, That the party who had last confirmed, had no right; and that when a testament was once confirmed, no other party could have right by a posterior testament dative, unless it were an dative *ad omissa*, which was not in this case. Farther, the LORDS found, That inferior Commissaries have had no power to confirm datives *ad omissa*.

Fol. Dic. v. 1. p. 504. Haddington, MS. No 1179.