

S E C T. II.

Parts of a Barony in different Shires.—Effect of a Deputation.

1552. February 24. LD. CALDER *against* SHERIFF of NAIRN.

No 3.

ANENT the action pursued by the Ld. of Calder against the Sheriff of Nairn for calling of his tenants to his Sheriff-court, howbeit that all his lands lying within the said Sheriffdom of N., were annexed to the barony of C., lying within the Sheriffdom of M., and specially exempted from the said Sheriff of N., to give service and presence in the said court of M., where the said lands of C. lie, for the said lands of C., and all lands annexed thereunto;—it was *alleged* by the said Sheriff, That howbeit the said Thane was exempted from any service by virtue of the lands annexed; yet tenants and the said lands should not be exempted by virtue of the said annexation and exception foresaid; which allegiance was found relevant by the LORDS, and the tenants of the said lands ordained to answer, notwithstanding the said annexation.

Fol. Dic. v. I. p. 492. Maitland, MS. p. 116.

1622. March 7. L. CLUNY *against* L. BOQUHEN.

L. CLUNY as Bailie-depute to the Marquis of Huntly, who was heritable Bailie to the burgh of Aberdeen, obtains decret against the L. Boquhen before his own depute, and letters conform before the Lords, for some unlaws for his not compearance to answer in the head courts holden by the L. Cluny; the which being suspended by the L. Boquhen, upon this reason, viz. that he being constituted Bailie-depute by the Marquis, who was principal Bailie within such particular bounds within his deputries therein specially designed, within which bounds the lands for which he was unlawed lie, and that long before the deputyry given to Cluny; in the which anterior deputyry of the suspenders, there was a special place designed to him to hold his courts; therefore by his bailiary-depute he was exempted from suit and compearance, to answer for the lands contained in the said deputyry, either at head courts, or any other courts; especially against another Bailie-depute, who was constituted posterior to himself;—the LORDS found this reason of suspension relevant, and suspended the sentences thereby; albeit it was *answered* for Cluny, That his deputyry was universal through the whole bounds of the bishoprick, and that the suspender's bailiary was only particular within some certain bounds, which could not be extended to exempt him from compearance for his own lands in the head courts, but gave him only

No 4.

An heritable Bailie gave first a deputation extending over the lands of the depute himself, and several others; then a general deputation to another of the whole regality. The first was found exempted from suit or compearance at the courts of the other.

No 4. the liberty to hold common courts against his own tenants, possessors of his lands within the bounds of his deputy, and against the other vassals of this bishoprick within his said bounds, and that the said deputy could not be further extended; which allegiance was repelled by the LORDS, in respect the question was betwixt two Bailie-deputes, and not betwixt the Lord or his principal Bailie and the depute.

Act. Baird.

Alt. Lawtie.

Clerk, Gibson.

Fol. Dic. v. 1. p. 493. Durie, p. 19.

S E C T. III.

Jurisdiction how dismembered.

No 5. 1630. March 3. LORN against PANHOLES.

A VASSAL though infest *cum curiis*, is not exempted from his superior's courts. This clause gives him power to hold courts upon his own tenants for his farms, or wrong done among themselves; which, at the same time, is not privative of the superior's jurisdiction; and therefore if the vassal himself do wrong, or commit blood, he may be convened in the superior's court, notwithstanding of the said clause.

Fol. Dic. v. 1. p. 492. Durie.

* * This case is No 7. p. 4789, *voce* FORUM COMPETENS.

No 6.
The erection of a royal burgh within a bailliary excludes not the bailliary of its jurisdiction and casualties; and the case differs from that of a barony constituted within

1666. February 27. LORD COLVIL against TOWN of CULROSS.

THE Lord Colvil being infest in the heritable office of the Bailliary of Culross, by progress from the Earl of Argyle, first Bailie, who was infest by the Abbots before the Reformation; having full power of all jurisdictions, civil or criminal, and of all the amerciements, bloods, and casualties to his own behoof, he does thereupon pursue a declarator of the right against the Town of Culross, which is within the Lordship of Culross, that he had right to the bloods, and to all jurisdictions civil and criminal amongst the burgesses thereof. It was *alleged* for the defenders, absolvitor; because their town was erected in a burgh royal by the King, with power of heading and hanging, and other privileges