

No 264.

1665. December 12. PRINGLE against CRANSTON.

IN the case Pringle of Greenknow against Cranston, found that a sub-vassal being infeft by a baron *cum curiis et bloodwitis*, may hold courts and unlaw for blood.

Fol. Dic. v. I. p. 504. Dirleton, No 5. p. 4.

* * * Stair reports same case :

WILLIAM CRANSTOUN being vassal to Greenknow, he was americiated in his court for a blood committed upon Walter Pringle ; and being charged, suspends upon this reason, That Greenknow not being a baron, or the King's immediate tenant, had no power of blood-wits, unless he had an express deputation from his superior, the Marquis of Huntly, who is baron, only having the jurisdiction. It was *answered*, That Greenknow was infeft, *cum curiis et bloodwitis*.

Which the LORDS found sufficient.

Stair, v. I. p. 324.

* * * This case is also reported by Newbyth :

WALTER CRANSTOUN being unawed in Greenknow's baron court for a blood and bloodwit upon James Fairholm, and for a riot committed on Robert Fairholm, suspends upon this reason, That Greenknow being sub-vassal to the Marquis of Huntly, has no power to cognosce upon unlaws for blood ; to which it was *answered*, That the charger being infeft *cum curiis bluid et bluidwit*, and his infestment being ratified by act of parliament, and by virtue thereof he and his predecessors in possession, past all memory, to hold courts and judge anent bloods, his jurisdiction cannot be now questioned. THE LORDS found the letters orderly proceeded, and found that Greenknow's right could not be quarrelled, especially by the suspender, who is his sub-vassal.

Newbyth, MS. p. 46.

* * * Gilmour also reports this case :

1666. January.—IN a suspension pursued by William Cranstoun against Walter Pringle of Stichel, as commissioner for Walter Pringle of Greenknow, for a bloodwit, wherein the said William Cranstoun was americiated by an inquest of Greenknow's tenants ; compared the Sheriff of Berwick, and *alleged*, That Greenknow had no power to hold courts for bloods, because he was not the King's free baron of the lands where the blood was committed, being only a feuer to the Marquis of Huntly. It was *answered*, That he was infeft by the superior, the King's baron, *cum curiis et bloodwitis*, which was equivalent as if he had been heritable bailie constituted by the superior, and which clause gave

him a liberty of courts, and a right to bloods, when he was the first attacher, before the superior or sheriff. No 264.

THE LORDS preferred the vassal.

Gilmour, No 174. p. 125.

1692. December 23.

CHESSORS, Tenants in Fedderet, against Mr ROBERT KEITH of Lentush.

THE LORDS found, though Fedderet held of Drum, and so was not the King's vassal, yet his charter being *cum curiis et bloodwitis*, that it gave him right to make a deputation of bailiary; and that it has been so decided, is both observed by Durie and Stair; and that the baron bailie might, in absence of the party cited, both lead probation for the riot, and fine him for that, and also amerciate him for his contumacy and absence; and that he might fine for blood as high as the sheriff, viz. in L. 50 Scots, and for absence in L. 10; but that the Lords might modify these fines. But the LORDS having considered the sundry informalities in the sentences and executions of pointing, though they would not annul the decreet (for then the pointings would have been a spulzie), yet they decerned Lentush in restitution of their pointed goods for his fines, if they were extant; and if they were sold or disposed of, to count for the prices contained in the instrument of pointing; but would not give the tenants their *juramentum in litem*; and thought it reasonable, that during the dependence between Artramford and Lentush, neither of them should harass their tenants with fines, till it should be determined which of them ought to have the possession.

Fol. Dic. v. 1. p. 504. Fountainball, v. 1. p. 538.

1752. July 1. BRIGS and Others against The DUKE of BUCCLEUGH.

By act of parliament 1685, certain tolls were appointed to be levied at the two bridges of Dalkeith, and the power of levying them was granted to the bailie of the regality of Dalkeith, and his deputy, and their successors in office, for particular uses narrated in the act. The regality of Dalkeith having been taken away by the act of parliament 20th Geo. II. and the office of bailie of regality thereby abolished, Brigs and others, inhabitants of Dalkeith, prayed the Lords to appoint a factor for levying of the said tolls.

The Duke of Buccleugh, (to whose family the regality of Dalkeith belonged) opposed this, and *pleaded*, That the act by which the tolls were granted, empowered the bailie of regality of Dalkeith to levy and apply them; that his power naturally devolves to the baron bailie, as he is the only magistrate now remaining within the territory of Dalkeith, and derives his jurisdiction, as the

No 265.

A charter from a superior *cum curiis et bloodwitis*, entitles the vassal to name a bailie, who may fine in L. 50 for blood, and L. 10 for contumacy.

No 266.

By an old act of Parliament, certain tolls were appointed to be levied by a bailie of regality. After that office was abolished, the Court appointed the baron bailie to levy the tolls.