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within one depute's territory ; and the nature of the jurisdiction itself is different from the other heritable jurisdictions, which were originally created in favour of the grantees, who therefore may, by resignation, put an end to them, without consent of the vassals over whom they are constituted ; and it may be consequent thereto, they should have a power of dividing and disposing of them at their pleasure.

For the claimants, The grant of a deputation does not exempt from the jurisdiction of the principal, so that these parts of the Sheriff's office, which have a general relation to the whole shire, may be performed by the Sheriff-principal, or a General-depute. Head Courts are, indeed, confined to the head burghs ; but ordinary Courts, for jurisdiction, may be held anywhere. Writs issuing from superior Courts are directed to the Sheriff-principal, who must send them to his particular deputies, for whom he is answerable.

THE LORDS found the claimants entitled to a recompence.

*Fol. Dic. v. 3. p. 363. D. Falconer, v. I. No. 247. p. 331.*

1748. *March 3.*

THE EARL OF GALLOWAY *against* The MARQUIS OF ANNANDALE.

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Recompence due for a right of stewartry, clothed with possession over an estate, described as lying within another stewartry, the Stewart of which had no possession over the estate.

THE EARL of Galloway claimed for the stewartry of Gairlies, granted to his predecessor 1542, by a charter proceeding upon a resignation of the barony of Gairlies, lying within the stewartry of Kirkcudbright, *cum officio Senescallatus*, erected into a lordship ; and he was in possession of exercising a jurisdiction, which he entitled of Stewartry in his books ; but it was said, the particular acts were only such as might be exercised by a Baron Bailie.

The Marquis of Annandale, heritable Stewart of Kirkcudbright, granted to his author 1537, by a charter confirming another some years before, *pleaded*, That Gairlies was part of his stewartry, and could not be erected into another in favour of any person, to the prejudice of the heritable Stewart's prior rights. One stewartry could not subsist within another, as a stewartry might within a shire ; and he was in constant use of accounting in Exchequer for the blench-duties of the Earl's barony of Gairlies, and had also summoned the inhabitants thereof to attend as jurors at the Justiciary Circuit Courts.

*Fleaded* for Galloway, That the Stewart of Kirkcudbright had never exacted the blench-duties, however he pretended to account for them ; and there was only one instance of his summoning an inhabitant as a juryman, who did not attend : That both rights stood in need of the aid of prescription, which Galloway's had ; and Annandale had no possession over Gairlies ; so that, if he ever had a right, it was lost by the negative prescription : That Kirkcudbright was a proper stewartry, extending over the King's estate comprehending Gairlies ; but the presumption was, that, before the Great Stewartry was

made heritable, it was disjoined therefrom, and granted heritably to the claimant, whereby it came to be described as lying within that stewartry, of which it had really been a part; besides, as Kirkcudbright was no sheriffdom, but the Stewart did the functions of the Sheriff, Gairlies continued to remain in that respect within the Great Stewartry, as other stewartries were within the respective shires where they were locally situated.

*Pleaded* for Annandale, That the presumption was, this office was erected, before the estate came into the hands of the King, by the proprietor who had granted the stewartry of his barony of Gairlies, which was no more than the office of a Baron Bailie, at that time called Stewart: That, on the lands falling into the King's hands, by the forfeitures of the Earls of Douglas, to whom they had belonged; or, perhaps, on the forfeiture of some other family, to whom they had formerly belonged, the Great Stewartry was erected; but the former jurisdiction still subsisted, and was granted together with the barony of Gairlies, which was, therefore, rightly described as lying within the Stewartry of Kirkcudbright.

THE LORDS found the Earl of Galloway entitled to a recompence for the stewartry of Gairlies.

*Fol. Dic. v. 3. p. 363. D. Falconer, No. 248. p. 333.*

1775. *January 26.*

ADAM BEGBIE, DEACON, and WILLIAM GIBSON, Boxmaster, to the Incorporation of Tailors of Potterrow and Bristo, *against* THOMAS BROWN, Tailor in Potterrow.

IN 1594, a Seal of Cause was granted by John Towers, Baron of Innerleith, and Patrick Knox, one of the Bailies of the barony, erecting the tailors of that barony, of which the village of Portsburgh was a part, into a society, with certain immunities and privileges. It ordains, 'That no person shall be allowed to work as a tailor within the bounds of the Potterrow, Easter and Wester Crofts of Bristo, except they be first presented to the Baron and his Bailies; that their life and conversation may be tried, and their free goods, and armour for defence of the country, known, and be enrolled amongst the brethren of that craft in the Baron books, and to pay a certain composition into the box of the craft, as shall be agreed upon.' The sum paid, in name of entry money, is not ascertained in the Seal of Cause; but immemorial usage has fixed it at the sum of one hundred merks.

Portsburgh and Bristo made a part of the barony of Innerleith, of which the family of Towers were superiors, when the Seal of Cause was granted in the 1594. Afterward, the lands of Portsburgh and Bristo were disposed of by that family to Hepburn of Humbie; and from him the Town of Edinburgh pur-

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The barony of Portsburgh was sold in 1649 to the Town of Edinburgh. Found, that the jurisdiction of the Bailie of that barony was not taken away by the Jurisdiction Act, but fell under the exception, "That nothing in this act shall extend, or be construed so as to take away, extinguish, or pre-