

THE LORDS repelled the allegiance as not relevant, and found the disposition of the land with all right thereto, could not extend to the regality, except it had been expressed.

No 8.

Fol. Dic. v. 1. p. 492. Stair, v. 2. p. 172.

* * * The like was decided 20th February 1733, Hay of Strowie against Creditors of Simpson. See APPENDIX.

1734. December 7. EARL OF WIGTON *against* TOWN OF KIRKINTILLOCH.

No 9.

A BARON having granted a charter to his Burgh of Barony, with power to them to chuse their own Bailies, whom he appoints and declares to be his Baron-Bailies within the bounds of the Burgh; the LORDS found, that by this grant no more was intended than a subordinate jurisdiction, such as is competent to vassals, which the incorporation of the Burgh is; consistent always with the accumulative jurisdiction in the superior. See APPENDIX.

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

S E C T. IV.

What cases must be tried by an Inquest.

1622. January 30. The STEWART of the MERSE *against* L. WESTNISBET.

IN an action of double poinding, pursued at the instance of one Johnston in the Merse, who for blood committed by him, was convicted by the Laird of Westnisbet, heritor, and vassal to the King, of the lands within the which the blood was drawn, and the fact committed, albeit he was no Baron; and also the said Johnston was convicted by the Earl of Hume's Bailie, as Stewart of the Merse, for the same blood. THE LORDS, in respect of the prevention of the King's vassal, preferred him in the right of the unlaw, to the Stewart, albeit the vassal's, viz. Westnisbet's decret was quarrelled by the party upon these nullities, viz. That the Laird of Westnisbet was no Baron, and so could not have right to blood-wits; *2do*, That it was given only upon probation of the committer's confession, testified by the clerk's assertion, whose affirmation could not make faith without the party's subscription, in a matter of an hundred pounds contained in that sentence, being for two blood-wits, or that he might

No 10.

The decree of an inferior judge for bloodwit was sustained on the party's confession, tho' without an inquest.